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**MEMORANDUM**

**To:** Members and Staff, Board of Massage

**From:** Susan Sherman, LMT, and Diana Thompson, LMT  
AMTA-WA Government Relations Co-Chairs

**Re:** WSR 20-14-102, Massage Therapy Rules

**Date:** July 31, 2020

The following comments are submitted on behalf on the American Massage Therapy Association, Washington Chapter (AMTA-WA), a statewide organization with over 5,000 members. AMTA-WA is in strong support of WSR 20-14-102 concerning massage therapy rules. This CR-102 represents the culmination of over five years of work, with AMTA-WA as the lead organization, working collaboratively with the Board of Massage (Board) members and its staff.

These rules, taken as a whole, improve public protection through increasing the number of hours of massage education and training, as well as providing additional clarity to licensed massage therapists (LMTs), which in turn also protects the public. In addition, these proposed rules will strengthen LMT’s role as recognized and respected health care providers in the State of Washington.

The following are AMTA-WA’s specific comments supporting the rules, as well as suggested technical corrections and edits that are found not only in the narrative below, but also in the text of the proposed rules that follow this narrative.

**WAC 246-830-020—Applications.** Legislation passed in 2020 eliminated the requirement for AIDS education, and therefore it is deleted in this WAC. In addition, clarifying language was included to make it clear that a state criminal background check is required for all applicants.

**WAC 246-830-035—Licensing by endorsement for out-of-state applicants.** This is an important proposed WAC change for out-of-state applicants, in particular because these proposed rules will increase the number of hours required for education and training from 500 to 625.

In order to create flexibility for out-of-state applicants seeking licensure in Washington State, while maintaining public safety, the proposed amendment allows two options for an applicant licensed as an LMT in another state: (1) If the applicant has at least two years’ experience and 24 hours of CE within two years prior to making application, then only 500 hours of education is required; or (2) If the applicant does not have at least two years’ experience, then the applicants needs 625 hours of education and training to have been completed in no fewer



than 24 weeks. AMTA-WA believes this language strikes the right balance in recognition of the fact that some states require fewer than 625 hours of education and training.

Finally, thank you very much for the clarification in subsection (1)(c) that states that when there is a gap in practice of three or more years prior to applying, 24 hours of CE education for the two most recent years prior to making application is also required.

**WAC 246-830-037—Transfer programs and transfer of credit or clock hours for prior education and training.** AMTA-WA worked to pass legislation in 2016 to allow for transfer programs to legally operate. At that time, questions had been raised about a lack of legal foundation, and RCW 18.108.028 is now that foundation.

While transfer programs are an important option for massage students, it is crucial that these programs have a process to assure that transfer students are only granted credit for courses where they can demonstrate competency. As a result, this rule requires in subsection (4)(c) that transfer programs must require that transfer students pass written and practical tests for each applicable subject area for which credit is being requested. AMTA-WA strongly supports this requirement, and believes it is important for the integrity of transfer programs in order to assure that licensees who graduate from these programs are qualified to practice massage in Washington State.

In addition, AMTA-WA appreciates the language in subsection (3) that will align the expiration date of a transfer program with the expiration date of the massage school where the transfer program is located.

Finally, thank you for reorganizing this WAC to improve readability.

**WAC 246-830-420—Approval of massage school, massage program, or apprenticeship program.** There are two important changes in this WAC that AMTA-WA supports. With a student clinic required to be a part of massage education in WAC 246-830-430, it is more important than ever that the student clinic be a meaningful learning experience.

In order to accomplish that, AMTA-WA supports a change in the ratio of student to clinical supervisor from no less than one faculty member to no more than 10 students, to no less than one faculty member to no more than six students. We believe that six students should be the maximum number of students in order to have an appropriately supervised clinic. From our perspective, that would require the following steps, which are included in the Small Business Economic Impact Statement (SBEIS):



"a. Clients fill out a brief health history questionnaire. Students review the health history with their supervisor to assure that the students are aware of any red flags that would say "no" to massage or limit or otherwise inform the type of massage given.

b. Students develop a massage plan, based on that health history and any client preferences, if appropriate. This plan is reviewed by the supervisor.

c. Students begin the massage, knowing that if they have any concerns, they can stop the massage and talk with their supervisor. Examples of concern could be client questions that the students is unable to answer; client requests for a certain type of massage that is outside the scope of legitimate massage; student concerns about their safety in general; student questions concerning massage techniques upon finding an undisclosed physical problem.

d. A supervisor will observe a student massage for a portion of time, to assess the competency of the student. Of course, the client would have authorized this type of observation.

e. Students complete the massage and follow up with their supervisor concerning the session in general, to include their chart notes. Follow-up with their supervisor, to include review of the chart notes, is a crucial part of learning."

**NOTE:** Three different WACs describe the ratio of no less than one clinical supervisor to no more than six students—in three different ways. The WACs are 420(1)(d), 430(1)(e), and 440 (4). We chose what we think is the best combination for maximum clarity as follows: "...with a ratio of no less than one instructor/faculty member (depending on the WAC) to no more than six students who are actively performing massage." We have made the suggested changes in the specific proposed WACs, that follow this Memorandum.

The second important change is the requirement that the clinic's clinical supervisor have at least three years' practical experience. Throughout these proposed rules, there is now a three years' experience requirement for anyone who is teaching massage. Previously, there was a three years' requirement that applied to CE course instructors, but only two years for massage school/program instructors. AMTA-WA believes that same three year standard should apply to all massage education and training and we thank the Board for including it in these rules.

**WAC 246-830-430—Education and training.** AMTA-WA strongly supports increasing the hours of massage education and training from 500 to 625. This change will align Washington State with the recommended national best practices for minimum training hours established in the Entry Level Analysis Project (ELAP). It's important to note that 65% of massage schools operating in Washington State are already at or above 625 hours.

ELAP is a research project initiated by the Coalition of National Massage Therapy Organizations. The Federation of State Massage Therapy Boards was a member, as was the American Massage Therapy Association. The project's goal was to define the knowledge and skills of entry-level



massage education and to recommend the minimum number of hours schools should teach to prepare graduates for safe and competent practice. The required coursework is significantly more detailed than the current rule language and considered the best practice within the United States massage educational system.

In addition, AMTA-WA believes that a dedicated 40 hours of ethics is of particular importance, as in the 50 hours for a student clinic. We also would like to note our support for capping the maximum number of hours in a student clinic at seventy-five due to the potential for taking advantage of students.

**NOTE:** Three different WACs describe the ratio of no less than one clinical supervisor to no more than six students—in three different ways. The WACs are 420(1)(d), 430(1)(e), and 440 (4). We chose what we think is the best combination for maximum clarity as follows: “...with a ratio of no less than one instructor/faculty member (depending on the WAC) to no more than six students who are actively performing massage.” We have made the suggested changes in the specific proposed WACs, that follow this Memorandum.

**WAC 246-830-440—Curriculum—Academic standards—Faculty—Student clinic.** The changes made in this WAC are consistent with those in WAC 246-830-430. In addition, AMTA-WA strongly supports the inclusion of anti-discrimination language concerning gender, sexual orientation, and gender expression. Further, AMTA-WA supports increasing the experience requirement for faculty members from two to three years.

**NOTE:** Three different WACs describe the ratio of no less than one clinical supervisor to no more than six students—in three different ways. The WACs are 420(1)(d), 430(1)(e), and 440 (4). We chose what we think is the best combination for maximum clarity as follows: “...with a ratio of no less than one instructor/faculty member (depending on the WAC) to no more than six students who are actively performing massage.” We have made the suggested changes in the specific proposed WACs, that follow this Memorandum.

**WAC 246-830-475—Continuing education requirements.** AMTA-WA supports changes in this WAC to improve readability and clarity as well as provide more options for obtaining CE credits. Unfortunately, LMTs have the highest CE audit failure rate of any health care profession. Our hope is that the proposed changes in this WAC will result in fewer audit failures.

In addition, we have two suggestions for technical modifications:

1. Subsection (1). Please delete WAC 246-830-475 and insert “this section.”
2. Subsection (2)(a). Consider deleting the “(6)” in RCW 18.108.010—because if this statute is amended at a future date, subsection (6) may no longer be correct. RCW 18.108.010 is sufficient.



3. Subsection (2)(b). Please delete the words “in person,” because in the foreseeable future, Board meetings will be held via webinar, and not in person.
4. Subsection (4)(d)(vi) should reference subsection (3)(c).

**WAC 246-830-550—Standards of practice—Limitations.** The proposed changes increase clarity by being more specific about the limitation of massage on certain parts of the body.

**WAC 246-830-555—Breast massage.** The proposed changes made important clarifications concerning consents, for adults as well as minors.

**WAC 246-830-557—Massage of the gluteal cleft or perineum.** This New Section was written to provide additional clarity for LMTs and assure public safety by removing language from the standards of practice/ limitations rule (WAC 246-830-550) to create a new rule focused specifically on this topic with additional detail for those LMTs who do this work.

The new language adds specific requirements for what topics must be included in the 16 hours of education and training beyond the minimum competencies in order to ensure patient safety. LMTs must also include additional information for the patient during the consent process regarding the patient's ability to discontinue treatment at any time, ability to have a witness present and document a therapeutic rationale for the treatment acknowledged by the client or patient. The proposed rule also requires the use of appropriate draping techniques and the use of hygienic, safe, and sanitary practices, including gloves.

**WAC 246-830-560—Coverage and draping.** Important consent language is clarified concerning gluteal and breast drapes. In addition, the proposed language adds that coverage and draping practices must be safe, functional, and hygienic. Current language only states safe and functional. In this COVID-19 environment, the word “hygienic” has increased importance. The proposed rule also adds language that requires all linens to be maintained in accordance with WAC 246-830-500.

**WAC 246-830-565—Recordkeeping.** AMTA-WA strongly supports the inclusion of language which states that a written consent is considered valid for one year unless revoked. This has been an area of widespread confusion for LMTs, and this language solves the problem. In addition, language concerning documentation of written consents or modifications in coverage or draping must be included in LMT records.

**WAC 246-830-570—Record retention.** AMTA-WA appreciates the language in subsection (7) which states that “A massage therapist will not be in violation of subsections (1) and (2) of this section if the massage therapist is unable to access the records after a good faith attempt has



been made to obtain the records.” We think this language is important for those LMTs who have been or who are currently employees.

We have two further comments concerning this WAC that require clarification in order for LMTs to understand what is being required. They are as follows:

1. Subsection (3) requires that the record retainer of massage therapist records must comply with chapter 70.02 RCW. That chapter contains 42 distinct statutes. It’s unreasonable to ask LMTs to comply with the entire chapter since (1) not all statutes within that chapter are applicable; and (2) it’s impossible to determine which statutes within that chapter are applicable. We recognize that this is not a new requirement. However, without specificity as to which statutes within chapter 70.02 RCW should be complied with, it sets LMTs up for failure. If the Board insists on retaining this language without further specificity, AMTA-WA would respectfully request that the Board ask the Department of Health to develop a guideline so that LMTs understand what is required.
2. Subsection (6) states references the Unfair Business Practices Act. AMTA-WA is uncertain why this language is included. In a word search, we could not find any reference to this Act in other statutes or rules concerning health care providers. Please revisit/explain why this is necessary.

**Effective Date:** AMTA-WA has been told that the Board will decide on an effective date at its August 21, 2020 rules hearing. AMTA-WA recommends a one year delay from the date the CR-103 is filed to give both massage schools and programs, as well as LMTs, adequate time to make the changes required by these rules.

**Chapter 246-830 WAC**  
**MESSAGE ((~~PRACTITIONERS~~))THERAPISTS**  
**AMENDATORY SECTION** (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-005 Definitions.**

The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

- (1) "Animal" means any species normally recognized as treatable by veterinary medicine.
- (2) "Animal massage therapist" means an individual licensed to practice massage therapy under chapter [18.108](#) RCW with additional education and training in animal massage therapy as required under this chapter and holds the animal massage therapist endorsement required by RCW [18.108.230](#).
- (3) "Apprentice" means an individual enrolled in an apprenticeship program, and who is held to the same standards as students in massage schools or massage programs.



(4) "Apprenticeship educator and trainer" means a massage therapist licensed under chapter [18.108](#) RCW with at least ~~((five))~~three current years of experience in full-time practice.

(5) "Apprenticeship program" means education and training in massage administered by an apprenticeship educator and trainer that satisfies the education and training requirements for massage set forth in this chapter.

(6) "Board" means the Washington state board of massage.

(7) "Breast massage" means the specific and deliberate manipulation of breast tissue pursuant to [WAC 246-830-555](#). Massage of the surrounding chest and shoulder muscles such as massage of the intercostal, pectoral, or axillary muscles is not considered breast massage. ~~((Breast massage is only allowed as authorized by WAC 246-830-555.))~~

(8) "Department" means the Washington state department of health.

(9) "Direct supervision" means supervision by a faculty member who is a clinical supervisor of the massage school or massage program and is on the premises, in the student clinic and is readily available to students and clients or patients.

(10) "Evaluation" means the assessment of soft tissue in order to facilitate decision making regarding effective forms and techniques of massage, and identifying cautions and contraindications to ensure client or patient safety. Evaluation does not mean diagnosis.

(11) "Intraoral massage" means the manipulation or pressure of soft tissue inside the mouth or oral cavity for therapeutic purposes.

(12) "Linens" means sheets, blankets, towels, gowns, pillow cases, face cradle covers, and other nonimpervious fabrics used in the practice of massage.

(13) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of thrusting force, nor does it include genital manipulation. See [WAC 246-830-550](#) for additional limitations on massage practice.

~~((13))~~(14) "Massage business" means the operation of a business where massages are given.

~~((14))~~(15) "Massage program" or "program" means education and training in massage therapy approved by the board. A massage program or program is an established area of study offered on a continuing basis.

~~((15))~~(16) "Massage school" or "school" means an institution which has the sole purpose of offering education and training in massage therapy approved by the board.

~~((16))~~(17) "Massage therapist" means an individual licensed as a massage therapist under chapter [18.108](#) RCW.

~~((17))~~(18) "Massage transfer program" means a separate board approved program within a board approved massage program or school that allows ~~((board approved massage programs and massage schools))~~the transfer program to accept credits and clock hours from massage schools, massage programs, colleges or universities that ~~((have))~~may not have been approved by the board, pursuant to [WAC 246-830-037](#).



(19) "Perineum" means the tissues between the anus and scrotum or vulva.

~~((18))~~(20) "Secretary" means the secretary of the department of health or the secretary's designee.

~~((19))~~(21) "Student" means an individual currently enrolled in a massage school, massage program or apprenticeship program who is practicing massage solely for the purposes of education and training as part of their current course work and who is not receiving compensation for said practice.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-020 Applications.**

(1) An applicant for a massage therapist license must be eighteen years of age or older and must submit to the department:

(a) A completed application on forms provided by the department;

(b) Proof of successful completion of the required education and training of a massage school, massage program, or apprenticeship program on an official transcript or school completion form sent directly from the applicant's massage school, massage program or apprenticeship program;

(c) Proof of successful completion of a board approved examination under WAC 246-830-201;

(d) Proof of successful completion of the Washington state massage jurisprudence examination;

~~((e))~~ ~~(Proof of successful completion of four clock hours of AIDS education as required by chapter 246-12 WAC, Part 8;~~

~~((f))~~ Proof of certification in American Red Cross first aid and American Heart Association CPR or the equivalent. CPR training must be in person;

~~((g))~~(f) The required nonrefundable application fee in WAC 246-830-990; and

~~((h))~~(g) A state criminal background check, and, if required by the department, fingerprint cards for a national or state fingerprint based background check pursuant to RCW [18.130.064](#)(2) and chapter 246-12 WAC.

(2) The secretary may request additional supporting documentation as necessary.

(3) The secretary will not grant a license under this chapter to any person who has been convicted of violating RCW [9A.88.030](#), [9A.88.070](#), [9A.88.080](#), or [9A.88.090](#) or equivalent local ordinances within the eight years immediately preceding the date of application, except as provided in RCW [9.97.020](#).

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-035 Licensing by endorsement for out-of-state applicants.**

(1) A massage therapist applicant holding a massage license in another state or foreign jurisdiction may be granted a Washington massage license if:



(a) The board determines the other state's, territory's, or foreign jurisdiction's education and training requirements are substantially equivalent to Washington's. Substantial equivalency means a course of study at a massage school or massage program that requires:

(i) A minimum of ~~((five))~~six hundred ~~twenty-five~~ hours of education and training, to be completed in no fewer than twenty-four weeks and approved by the equivalent licensing agency or agencies in the state, territory, or foreign jurisdiction in which it is located at the time of applicant's graduation; or

(ii) A minimum of five hundred hours of education and training, and approved by the equivalent licensing agency or agencies in the state, territory, or foreign jurisdiction in which it is located at the time of applicant's graduation, at least two years of experience, and documentation of at least twenty-four hours of continuing education within two years prior to making application.

(b) The applicant has a massage license in good standing as verified by the appropriate jurisdiction; and

(c) If there is a gap in practice of three or more years immediately prior to applying for a license by endorsement, the applicant must provide documentation of twenty-four hours of hands on ~~((delivery of massage therapy services))~~continuing education of massage therapy for the two most recent years prior to making application.

(2) If an applicant does not meet the requirements of this section, then the applicant may fulfill the remaining education and training requirements as outlined in WAC 246-830-037.

(3) The applicant must have successfully passed one of the following examinations:

(a) Federation of State Massage Therapy Boards' massage and bodywork licensing examination;

(b) National certification examination for therapeutic massage and bodywork; or

(c) A board-approved examination.

(4) The applicant must satisfy the requirements in WAC 246-830-020 (1)(a) through (h).

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-037 Transfer programs and transfer of credit or clock hours for prior education ~~((and clock hours))~~and training.**

(1) A transfer program must be approved by the board prior to a massage school or massage program enrolling a transfer student through the use of transfer credits or clock hours.

(2) To qualify as a board approved transfer program, an authorized representative of the massage school or massage program must submit to the board a completed application packet provided by the department.

(3) Approval of a transfer program is valid for three years after initial approval and every five years for reapproval. The transfer program's initial approval expiration date will be aligned to the expiration date of the related massage school or massage program approval. The board may place restrictions on, or may revoke or suspend, approval of a transfer program that fails to comply with the requirements in this section or in RCW [18.108.028](#).



(4) Board approved massage schools or massage programs may operate transfer programs that accept an individual's credits or clock hours from other massage schools, massage programs, colleges or universities, subject to the following conditions:

(a) The massage school, massage program, college or university from where credits or clock hours are being transferred is:

(i) Accredited by a national or regional education accreditation organization;

(ii) Approved by a state authority with responsibility for oversight of educational or vocational programs; or

(iii) Approved by a state agency that regulates massage schools or massage programs and is a member of the federation of state massage therapy boards.

(b) The massage school, massage program, college or university from where credits or clock hours are being transferred provides an official transcript;

(c) Courses for which credits or clock hours are granted must be substantially equivalent in content and academic rigor to the courses and clock hours presently offered by the massage school or massage program. In order to determine substantial equivalency, the ~~((massage school or massage))~~ transfer program will evaluate the courses and clock hours and require transfer applicants pass written and practical tests administered by a board approved transfer program for each subject area listed in WAC 246-830-430 (1)(a) through (g).

~~((d))~~ (d) If components are missing((-))or deficient from the massage school or massage program or the applicant cannot pass the required testing, the transfer program shall require ((credits or clock hours for those subjects while granting))the applicant to enroll and successfully complete those deficient components. Transfer programs may grant partial credit as appropriate((-)); however, documentation of the massage school's or massage program's decision-making rationale must be maintained in the student's file; and

~~((d))~~ (e) Documentation of all previous formal education and training ((applicable to completion of a massage school or massage program is)), as well as the test or tests used to grant credit or clock hours must be included in each student's permanent file.

~~((2))~~ A transfer program must be approved by the board prior to a massage school or massage program enrolling a transfer student via the use of transfer credits or clock hours.

~~(3)~~ An authorized representative of the massage school or massage program must submit to the board a completed application packet provided by the department. Approval of a transfer program will follow the same process as outlined in WAC 246-830-420.

~~(4)~~ Approval of a transfer program is valid for three years after initial approval and every five years for reapproval. The board may place restrictions on or may revoke or suspend approval of a transfer program that fails to comply with the requirements in this section or in RCW [18.108.028](#).)

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-420 Approval of massage school, massage program, or apprenticeship program.**

(1) To qualify as a board approved massage school, massage program or apprenticeship program, an authorized representative of the massage school, massage program or apprenticeship



program must submit to the board a completed application packet provided by the department. A completed application packet must include ~~((, but not be limited to))~~:

(a) A curriculum designed to meet or exceed the requirements listed in WAC 246-830-430. The following documentation must be submitted:

(i) A table of courses offered;

(ii) A syllabus for each course that includes course title, subject matter, course hours, all instructor(s) name(s), measurable course objectives, methods of evaluation, course schedule, and textbooks or other instructional materials;

(iii) A sample ~~((copy of))~~ or samples of mid-term, final, or other equivalent exams for each of the following ~~((exams))~~ subjects: Anatomy and physiology, pathology, kinesiology, practicum criteria, ethics and professionalism, and laws and rules pertaining to massage;

(iv) A statement describing how a student will obtain first-aid and CPR training; and

(v) An institutional philosophy or mission statement.

(b) A plan for how the massage school, massage program or apprenticeship program will evaluate its academic standards. The following documentation must be submitted:

(i) A statement or policy on minimum standards for measuring student progress; and

(ii) Copies of policies and procedures, to include a policy on nondiscrimination.

(c) Documentation explaining how the massage school or massage program determines training and experience qualifications for faculty members. The following documentation must be submitted:

(i) A policy on minimum competency standards for instructors and a statement that all massage school, massage program or apprenticeship program instructors meet those standards;

(ii) A resume((s)) for each instructor; and

(iii) A listing of all instructors and the courses each instructor plans to teach.

(d) ~~((A))~~ The student clinic must be ~~((supervised by))~~ under the direct supervision of a clinical supervisor who is a licensed massage therapist with at least ~~((two))~~ three-years practical experience. The clinical supervisor is responsible for reviewing the health history of the student's client or patient, ~~((and must review and approve the student's massage plan))~~ reviewing and approving the student's massage plan, and observing a reasonable portion of each massage session based on the competency of the student. A faculty member in the role of clinical supervisor must ensure a ratio of no less than one faculty member to **no more than** six students who are actively performing massage **treatment**.

(e) The following documentation must be submitted:

(i) A copy of policies pertaining to the student clinic;

(ii) A disclosure statement form provided to the client or patient;

(iii) A copy of the client or patient intake and screening form; ~~((and))~~

(iv) A copy of the client or patient feedback form; and

(v) A copy of the supervisor feedback form.

~~((e) Health, sanitation, and facilities must be)~~ (f) A statement that facilities are maintained in accordance with state and local ordinances and these rules governing health and sanitation. The following documentation must be submitted:

(i) A floor plan of the facility;

(ii) A floor plan of the student clinic;



- (iii) A list of equipment in the classroom;
- (iv) A list of equipment in the student clinic; and
- (v) A list of the library contents and computer or online resources available to students.
- ~~((f))~~(g) A copy of policies on faculty and student conduct.
- ~~((g))~~(h) Records must be stored in a secured location and be made available upon a student's written request. The following documentation must be submitted:
  - (i) A copy of a sample transcript; and
  - (ii) A policy on release of student records consistent with applicable law(s).
- ~~((h))~~(i) Eligibility to operate a massage school or massage program. The following documentation must be submitted:
  - (i) Verification that the school is approved to operate in the state of Washington, or has pending approval by the workforce training and education coordinating board;
  - (ii) Verification that the school is licensed by private vocational education (see chapter [28C.10](#) RCW or Title [28B](#) RCW); or
  - (iii) Verification that the program is part of a college or university that is nationally or regionally accredited.
- ~~((i))~~(j) Designation of an authorized representative of the school or program.
  - (2) The board may conduct a site inspection of the massage school, massage program or apprenticeship program prior to granting approval.
  - (3) The board may grant or deny approval or grant conditional approval contingent upon changes to the application requested by the board.
  - (4) To maintain approval status with the board, a massage school, massage program or apprenticeship program must apply for reapproval during the third year after initial approval and during the fifth year for each reapproval thereafter. Failure to apply for renewal by the expiration date of the massage school, massage program or apprenticeship program approval will mean that the approval is expired and no longer valid.
  - (5) In order to maintain board approval, a massage school, massage program or apprenticeship program must:
    - (a) Comply with any changes in training standards and guidelines adopted by the board;
    - (b) Notify the board of any changes in overall curriculum plan or curriculum content changes under subsection (1)(a) of this section prior to implementation by filing an addendum. The board may grant or deny the proposed change; and
    - (c) Notify the board of changes in authorized representative (~~(or instructors)~~) within thirty days of such change.
  - (6) An apprenticeship program is limited to no more than three apprentices per apprenticeship educator or trainer, and the apprenticeship must be completed within two years.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-430 Education and training.**

- (1) A massage school, massage program, transfer program, or apprenticeship program education and training must have a curriculum and system of education and training consistent with its particular area of practice. The education and training in massage therapy will consist of

a minimum of ~~((five))~~six hundred twenty-five hours. An hour of education and training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent is required. CPR training must be in person. This requirement is in addition to the ~~((five))~~six hundred twenty-five hours of education and training in massage therapy. These ~~((five))~~six hundred twenty-five hours are ~~((not))~~ to be completed in ~~((less than six months))~~no fewer than twenty-four weeks and must consist of the following minimum requirements:

~~(a) ((One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.~~

~~(b) Fifty hours of pathology including indications and contraindications consistent with the particular area of practice.~~

~~(c) Two hundred sixty five hours of theory and practice of massage to include techniques, remedial movements, body mechanics of the therapist, and the impact of techniques on pathologies. A maximum of fifty of these hours may include time spent in a student clinic. Hydrotherapy must be included when consistent with the particular area of practice.~~

~~(d) Fifty five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client or patient interaction, and state and local laws.))~~Ninety hours of anatomy and physiology, to include orientation to the human body, and the integumentary, skeletal, fascial, muscular, nervous, cardiovascular and other body systems.

(b) Sixty hours of kinesiology to include muscle identification and palpation, location and attachment(s), actions, range of motion, and joint classification and function.

(c) Seventy hours of pathology to include general terminology and classification of diseases, the indications, contraindications, cautions and common adaptations to massage including, but not limited to, arthritis, bursitis, cancer, headaches, skin cancer and other skin conditions, diabetes, fasciitis, sprain, strain, tendinopathy, nerve compression syndromes, osteoporosis, stress, fibromyalgia and other chronic pain syndromes, common neurological diseases, autoimmune disorders, bloodborne pathogens, common cardiovascular diseases, reproductive systems, pregnancy, and any other health care issues as they relate to the practice of massage as defined in RCW [18.108.010](#).

(d) Two hundred sixty hours of theory, principles, and practice of massage to include history of massage, benefits and effects, techniques and strokes, body mechanics of the therapist, application methods and styles, concepts of basic research, session planning and the adaptation of techniques appropriate to stages of healing, to include the safe use of superficial heat, cold, lubricants and salts, and considerations relevant to special populations.

(e) Fifty hours of mandatory student clinic to be directly supervised as defined in WAC 246-830-005(9), with a ratio of **no less than** one instructor to no more than six students **who are actively performing** administering massage **treatment**. For those education and training programs beyond six hundred twenty-five hours, in no case may the number of student clinic hours exceed seventy-five hours.



(f) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, sanitation, draping, recordkeeping, billing and insurance concepts, medical terminology, business models and management, and laws and rules relevant to massage and massage businesses.

(g) Forty hours of professional ethics to include the therapeutic relationship of the massage therapist and client or patient, human behavior, communication skills, professional boundaries, standards of ethical practice, and state laws and rules related to massage and health care ethics.

(2) To receive credit in an apprenticeship program for previous education and training, this education and training must have been completed within the five-year period prior to enrollment in the apprenticeship program.

(3) ~~((A student attending a massage school, massage program, transfer program or apprenticeship program outside the state of Washington must pass a jurisprudence exam.~~

(4) A massage school, massage program, transfer program or apprenticeship program may exempt a student from curriculum requirements when the student's successful performance on an examination that the massage school, massage program, transfer program or apprenticeship program administers demonstrates that the student has attained competency in that subject area as a result of prior postsecondary learning or training.))Only a board approved transfer program may exempt a student from curriculum requirements and grant credit or clock hours when the student's successful performance on an examination that the transfer program or apprenticeship program administers demonstrates that the student has attained competency in that subject area as a result of prior postsecondary learning or training. Any credits or clock hours granted pursuant to this subsection must be documented and retained in the student's record.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic.**

(1) The curriculum of the massage school, massage program, ~~((transfer program))~~ or apprenticeship program must be designed and presented to meet or exceed the required ~~((five))~~six hundred twenty-five hours completed in no fewer than twenty-four weeks.

(2) Academic standards. The massage school, massage program, or apprenticeship program educator and trainer must regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the massage program and graduation is dependent on mastery of the knowledge and skills presented in the massage school, massage program, or apprenticeship program.

(3) Faculty. ~~((An))~~The massage school, massage program, or apprenticeship program ~~((educator and trainer and))~~ faculty ~~((member))~~ must be qualified by training and experience to give effective instruction in the subject(s) taught. ~~((An apprenticeship trainer and))~~Faculty members who ~~((teaches))~~teach hands on courses must have a minimum of ~~((two))~~three-years experience in the subject matter being taught. The massage school, massage program, or apprenticeship ~~((trainer and faculty member should))~~program shall develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional



growth. A massage school, massage program, or apprenticeship program (~~(must)~~) shall not discriminate on the basis of sex, gender, race, age, color, religion, sexual orientation, gender expression, physical handicap, national or ethnic origin, or other basis prohibited by law in the recruitment and hiring of faculty.

(4) Student clinic (~~((optional program)))~~). Any setting in which a student clinic occurs must be adequate in size, number, and resources to provide for student practice of massage on the general public. A clinic must be properly equipped rooms for consultations, massage therapy or treatment, and equipment as required in the practice of massage. A faculty member who is a massage therapist with at least ~~((two))~~ three-years of experience in massage therapy must provide direct supervision as a clinical supervisor, per WAC 246-830-420 (1)(d), and have final decisions in the massage treatment which is rendered to clients or patients by students. A faculty member in the role of a clinical supervisor must ensure a ratio of no less than one faculty member to **no more than** ~~((ten))~~ six students who are actively performing massage **treatment**.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-475 Continuing education requirements.**

(1) To renew a license, a massage therapist must complete twenty-four hours of continuing education every two years, as provided in chapter 246-12 WAC, Part 7. Continuing education must be provided by an individual who has at least three years of professional experience in the subject area being taught. Massage therapists have a duty to ensure the continuing education they complete meets the requirements in **this section. WAC 246-830-475.**

(2) The following categories of continuing education are mandatory:

(a) A minimum of eight hours must be ~~((direct supervised massage skills training))~~ in person and directly supervised involving the participation of the direct application of massage therapy as defined in RCW 18.108.010 ~~(6);~~ and

(b) A minimum of four hours must be in professional ethics, client or patient communication, professional roles and boundaries, or Washington state massage laws and ~~((regulations. Two of these hours must include professional roles and boundaries))~~ rules. Two of the four hours may be met by attending board of massage meetings **in person**. A maximum of one hour is allowed per board meeting; and

~~(c) ((The remaining twelve hours may be met by meeting the requirements in subsection (2) of this section.~~

~~(2))~~ Maintenance of certification in American Heart Association CPR or equivalent. A maximum of four hours is allowed per reporting period.

(3) For the purposes of this chapter, the remaining hours of continuing education ((is)are defined as any of the following activities ((that involve direct application of)) reasonably related to massage therapy knowledge, skills, and business practices:

(a) Documented attendance at a local, state, national, or international continuing education program((-)or conference;

(b) First aid((-CPR,))certification or emergency related ((classes.))courses;

(c) Self-study through the use of multimedia devices or the study of books, research materials, ((and/or))or other publications.

~~((i) Multimedia devices. The required documentation for this activity is a letter or other documentation from the organization. A maximum of twelve hours is allowed per reporting period.~~

~~(ii) Books, research materials, and/or other publications. The required documentation for this activity is a two page synopsis of what was learned written by the licensee. A maximum of two hours is allowed.)~~ The required documentation for this activity is a one page, single spaced, twelve point font synopsis of what was learned written by the licensee. The time spent writing the synopsis is not reportable. Two hours of credit is allowed per report, and no more than two separate reports may be submitted per reporting period((-);

~~(d) Teaching a course for the first time((-, not to exceed eight hours.));~~

~~(e) Business and management courses ((not to exceed eight hours.~~

~~(f) Specialized training. Training must be provided for a fee by an individual who has no less than three years of expertise in that area.~~

~~(g));~~

(f) Distance learning. Distance learning includes, but is not limited to, correspondence course, multimedia or webinar, print, audio((/))or video broadcasting, audio((/))or video teleconferencing, computer aided instruction, e-learning((/))or on-line-learning, or computer broadcasting((/))or webcasting. ((A maximum of twelve hours is allowed per reporting period.

~~(h)); or~~

(g) Active service on ((~~massage related boards or committees. A maximum of twelve hours is allowed per reporting period~~))boards or participation in professional or government organizations specifically related to the practice of massage.

(4) A massage therapist must provide acceptable documentation of continuing education upon request or audit. Acceptable forms of documentation include, but are not limited to:

(a) Transcripts;

(b) A letter from the course instructor or the organization providing the continuing education;

(c) Certificate of attendance or completion; or

(d) Other formal documentation that includes the following:

(i) Participant's name;

(ii) Course title;

(iii) Course description;

(iv) Date or dates of course;

(v) Number of hours;

(vi) Indication of being an in-person course, self-study as referenced in subsection ~~(2)(c)(i) and (ii)~~ **(3)(c)** of this section, or distance learning as referenced in subsection (2)(f) of this section;

(vii) Instructor's name or sponsor organization name or names;

(viii) Instructor or sponsor contact information; and

(ix) Signature of the program sponsor or course instructor. Multimedia courses are exempt from this requirement.



(5) Massage therapists who maintain an active status Washington state massage license must meet all continuing education requirements regardless of whether they reside or practice in Washington state.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-550 Standards of practice—Limitations.**

(1) It is not consistent with the standard of practice for a massage therapist to touch the following body parts on a client or patient except where specifically noted:

- ~~(a) ((Gluteal cleft distal to the coccyx, anus and rectum;~~
- ~~(b) Inside the mouth unless an intraoral endorsement has been issued;~~
- ~~(c) Penis;~~
- ~~(d) Prostate;~~
- ~~(e) Scrotum;~~
- ~~(f) Vagina, to include:~~
  - ~~(i) Intravaginal;~~
  - ~~(ii) Labia (majors and minors);~~
  - ~~(iii) Clitoris;~~

(iv) Urethra; or))The gluteal cleft (space distal to the coccyx to the anus) and perineum unless in accordance with WAC 246-830-557. For the purpose of this section and WAC 246-830-557, the perineum is defined as the tissues between the anus and scrotum or vulva;

- (b) Anus or inside the rectum;
- (c) Inside the urethra;
- (d) Penis and scrotum;
- (e) Vulva to include labia (major and minor), clitoris, bulb of vestibule, vulval vestibule, urinary meatus and the vaginal opening;
- (f) Inside the vagina;
- (g) Breasts, unless in accordance with WAC 246-830-555; or
- (h) Inside the mouth unless an intraoral endorsement has been issued in accordance with WAC 246-830-490.

~~(2) ((A massage therapist must maintain evidence of the completion of at least sixteen specialized in person contact hours of education and training if they are performing massage in the perineal area in addition to obtaining prior written and verbal informed consent. This written consent may be included within an overall general consent to massage document, if clearly delineated and either specifically initialed or signed.~~

~~(3)) A massage therapist ((must))shall not engage in sexual misconduct as described in WAC 246-16-100. Sexual misconduct will constitute grounds for disciplinary action.~~

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-555 Breast massage.**

(1) Prior to performing breast massage, a massage therapist must:

(a) Acquire ~~((a))~~ prior signed or initialed written and verbal informed consent from the client or patient. If the client or patient is under eighteen years of age, prior written consent must be obtained from a parent or legal guardian of the client or patient. The written consent for breast massage may be included within an overall general consent to massage document, if clearly delineated and either specifically initialed or signed. The written consent must:

(i) ~~((Be maintained with the client or patient's records;))~~ Be documented and maintained with the client or patient records per WAC 246-830-565 and 246-830-570;

(ii) Include a statement that the client or patient may discontinue the treatment at any time for any reason; and

(iii) ~~((If the client or patient is under eighteen years of age, prior written consent must be obtained from a parent or legal guardian; and~~

~~(iv)))~~ Include a statement that the client or patient has the option to have a witness present, and that the witness must be provided by the client or patient.

(b) Use appropriate draping techniques as identified in WAC 246-830-560.

(2) In addition to the requirements identified in subsection (1) of this section, a massage therapist must maintain evidence of the completion of at least sixteen hours of specialized in-person education and training in breast massage beyond the minimum competencies. Education and training in breast massage includes, but is not limited to ~~((:)),~~ breast anatomy and physiology, pathology, indications, contraindications, cautions, therapeutic treatment techniques, draping, appropriate therapist-client or therapist-patient boundaries, expected outcomes, and client or patient safety related to breast massage.

(3) In addition to the requirements in subsections (1) and (2) of this section, prior to performing a massage of the breast that includes the nipples and ~~((areolas))~~ areolae, a massage therapist must obtain ~~((additional))~~ documentation as follows:

(a) A written prescription or referral from a licensed medical health care provider for this specific treatment; or

(b) ~~((An additional))~~ Prior signed or initialed written and verbal informed consent from the client or patient or from the parent or legal guardian if the client or patient is under eighteen years of age for massage of breast that includes the nipples and ~~((areolas))~~ areolae. This written consent may be included within ~~((an overall general consent to))~~ the consent for breast massage document ~~((, if clearly delineated and either specifically initialed or signed)).~~

## NEW SECTION

### **WAC 246-830-557 Massage of the gluteal cleft or perineum.**

(1) A massage therapist may massage the gluteal cleft from distal to the coccyx to the anus, and the perineum, after meeting the requirements in subsections (3), (4), and (5) of this section.

(2) For the purpose of this section and WAC 246-830-550, the perineum is defined as the tissues between the anus and scrotum or vulva. Massage of the perineum does not include massage of any areas of the body listed in WAC 246-830-550 (1)(b) through (f).

(3) A massage therapist performing massage of the body parts listed in subsection (1) of this section must maintain evidence of the completion of at least sixteen hours of specific in-



person education and training in massage of the specified areas beyond the minimum competencies. The education and training for massage of the body parts listed in subsection (1) of this section includes, but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client or patient safety, client or patient consent, client or patient communication, draping techniques, sanitation, and ethical responsibilities related to massaging the body parts listed in subsection (1) of this section.

(4) Prior to performing massage of the body parts listed in subsection (1) of this section, a massage therapist must obtain signed or initialed written and verbal informed consent from the client or patient. If the client or patient is under eighteen years of age, prior written consent must be obtained from a parent or legal guardian of the client or patient. This written consent may be included within the consent to massage document, if clearly delineated. The written consent must:

- (a) Be maintained with the client or patient records;
- (b) Include a statement that the client or patient may discontinue the treatment at any time for any reason;
- (c) Include a statement that the client or patient has the option to have a witness present, and that the witness must be provided by the client or patient; and
- (d) Provide a therapeutic rationale for massaging the body parts listed in subsection (1) of this section that is acknowledged by the client or patient.

(5) A massage therapist must use appropriate draping techniques as identified in WAC 246-830-560 with the exception of clients or patients who remain clothed.

(6) A massage therapist performing massage of the body parts listed in subsection (1) of this section must use hygienic, safe, and sanitary practices, including:

(a) Wearing gloves during treatment and training that involves massage of the body parts listed in subsection (1) of this section unless the treatment or training is provided over clothing or draping that provides a barrier to transmission of biologically hazardous material and infectious disease;

(b) Using fresh gloves for every client or patient during treatment and training that involves massage of the body parts listed in subsection (1) of this section unless the treatment or training is provided over clothing or draping that provides a barrier to transmission of biologically hazardous material and infectious disease; and

(c) Gloves that have been used for treatment and training that involves massage of the body parts listed in subsection (1) of this section must not be reused for any other purpose.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-560 Coverage and draping.**

(1) A massage therapist must:

(a) Allow a client or patient privacy to dress or undress except as may be necessary in emergencies or custodial situations; and

(b) Always provide the client or patient a gown or draping except as may be necessary in emergencies.



(2) Massage therapists must use safe ~~((and))~~, functional, and hygienic coverage and draping practices that comply with WAC 246-830-500 during the practice of massage when the client or patient is disrobed. The ~~drape((s))~~ or drapes must be sufficient to ensure the genitals and the gluteal cleft distal to the coccyx, anus and rectum are not exposed, and the breast area is not exposed except as allowed in subsections (3) and (4) of this section. Safe ~~((and))~~, functional, and hygienic coverage and draping means:

(a) The massage therapist explains, maintains and respects coverage and draping boundaries; ~~((and))~~

(b) Massage or movement of the body does not expose genitals or gluteal cleft distal to the coccyx, anus and rectum, or does not expose the breast area except as allowed in subsections (3) and (4) of this section; and

(c) All linens that are used with the client or patient are kept and maintained in accordance with WAC 246-830-500.

(3) With prior signed or initialed written~~((;))~~ and verbal~~((, and signed))~~ informed consent ~~((of))~~ from the client or patient, the gluteal and breast drapes may be temporarily moved in order to perform therapeutic treatment of the area consistent with WAC 246-830-550, 246-830-555, and 246-830-557. In addition, with informed and written consent, a client or patient may choose to have their upper torso undraped during the entire massage.

(4) If variations to this coverage and draping rule occur, a massage therapist must:

(a) Maintain evidence of education and training in specific modalities that require variations in coverage and draping;

(b) Receive voluntary and informed consent of the client or patient prior to any variation of coverage or draping; and

(c) Document in the client's or patient's record the rationale for any variation of coverage or draping.

(5) Any written consent required by this section may be included within an overall general consent to massage document, if clearly delineated and either specifically initialed or signed.

#### AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

##### **WAC 246-830-565 Recordkeeping.**

(1) A massage therapist providing professional services to a client or patient must document services provided. Documentation should be appropriate to the venue, the type and complexity of those services and, when applicable, in sufficient detail to support and enable anticipated continuity of care. The documentation must include:

(a) Client or patient name and contact information or name and contact information of a parent or guardian if a client or patient is ~~((a minor))~~ under eighteen years of age;

(b) Age of client or patient;

(c) Health history sufficient to ascertain if there are cautions or contraindications to safe application of massage therapy, and an update of the current health status at each session;

(d) Date massage therapy is provided and the duration of treatment;

(e) The types of techniques and modalities applied;



- (f) The location or areas of the body that received massage therapy;
- (g) Written informed consent to treat. A written consent is considered valid for one year unless revoked;
- (h) If breast massage is performed, an additional written consent to treat per WAC 246-830-555, and documentation of a therapeutic rationale;
- (i) If breast massage ~~((of))~~that includes the nipples and ~~((areolas are))~~areolae is involved, documentation of the prescription or referral per WAC 246-830-555 (3)(a), or an additional written consent to treat per WAC 246-830-555 (3)(b);
- (j) ~~((Documentation of any written consent or any modification in coverage and draping as required by WAC 246-830-560; and~~
- ~~((k)))~~If performing massage of the gluteal cleft or perineum, an additional written and verbal informed consent to treat is required to detail that the client or patient has a clear understanding of the therapeutic rationale, treatment plan, and areas to be massaged for that region per WAC 246-830-557(4);
- (k) Documentation of any written consent or any modification in coverage and draping as required by WAC 246-830-560; and
- (1) For massage therapy where the focus is on treating a health condition, the following additional information is required:
  - (i) Symptoms, for example, pain, loss of function, and muscle stiffness;
  - (ii) Evaluation and findings, for example, movement, posture, palpation assessment and findings;
  - (iii) Outcome measures, for example, improvement in symptoms, movement, posture, palpation, and function; and
  - (iv) Treatment plan for future sessions~~((; and~~
- ~~((1))~~If performing massage in the perineal area, an additional written and verbal informed consent to treat per WAC 246-830-550(2)).
- (2) Client or patient records must be legible, permanent, and recorded within twenty-four hours of treatment. Documentation that is not recorded on the date of service must designate both the date of service and the date of the chart note entry. Corrections or additions to the client's or patient's records must be corrected by a single line drawn through the text and initialed so the original entry remains legible. In the case of computer-organized documentation, unintended entries may be identified and corrected, but must not be deleted from the record once the record is signed and completed or locked. Errors in spelling and grammar may be corrected and deleted.
- (3) Correspondence relating to any referrals by other health care providers concerning the diagnosis, evaluation or treatment of the client or patient must be retained in the client or patient record.
- (4) Client or patient records should clearly identify the massage therapist who is the provider of services by name and signature or electronic signature and date of service.



AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

**WAC 246-830-570 Record retention.**

(1) ~~((A))~~ Massage therapist ((who treats)) records for clients or patients eighteen years of age and older must ((keep client or patient records)) be retained by, or be otherwise accessible to the massage therapist for at least three years from the date of last treatment.

(2) ~~((A))~~ Massage therapist ((who treats)) records for clients or patients under the age of eighteen years old must ((keep client or patient records)) be retained by, or be otherwise accessible to the massage therapist for at least three years after the client or patient reaches eighteen years old.

(3) ~~((A message therapist must also comply with record retention requirements of chapter 70.02 RCW.))~~ The record retainer of the massage therapist records for clients or patients shall comply with record retention requirements of chapter 70.02 RCW, Medical records—Health care information access and disclosure.

(4) All records must be secured with properly limited access in compliance with chapter 70.02 RCW and the Health Insurance Portability and Accountability Act (HIPAA).

(5) After the retention period, ~~((the massage therapist may dispose of the record))~~ records may be disposed of pursuant to this subsection. Disposal must be done in a secure and confidential manner in compliance with chapter 70.02 RCW and HIPAA and must include as appropriate:

- (a) Shredding;
- (b) Deleting, erasing, or reformatting electronic media; ~~((and))~~ or
- (c) Rendering other readable forms of media ~~((that are defaced or rendered))~~ unusable or unreadable.

(6) Nothing in this section shall be intended to infringe upon any rights or remedies related to unfair trade practices as those found in chapter 19.86 RCW, the Unfair Business Practices Act.

(7) A massage therapist will not be in violation of subsections (1) and (2) of this section if the massage therapist is unable to access the records after a good faith attempt has been made to obtain the records.