



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: June 30, 2020

TIME: 1:21 PM

WSR 20-14-102

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 17-18-110 ; or

Expedited Rule Making--Proposed notice was filed as WSR ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Proposal is exempt under RCW .

**Title of rule and other identifying information:** (describe subject) WAC 246-830-005, 246-830-020, 246-830-035, 246-830-037, 246-830-420, 246-830-430, 246-830-440, 246-830-475, 246-830-550, 246-830-555, 246-830-557, 246-830-560, 246-830-565, and 246-830-570 Massage practitioners. The Board of Massage in coordination with the Department of Health is proposing amendments to existing sections that add new definitions, revise licensing standards for out-of-state applicants, transfer programs, approval of schools, training hours, student clinic, continuing education, standards of practice, breast massage, coverage and draping, recordkeeping, and record retention. The proposed rules also create a new section for massage of the gluteal cleft and perineum.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
08/21/2020	10:00 am	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Board of Massage and the Department of Health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.  To access the meeting: Please register for Board of Massage Regular Meeting - August 21, 2020 on Aug 21, 2020 9:00 AM PDT at: <a href="https://attendee.gotowebinar.com/register/3126916919232304399">https://attendee.gotowebinar.com/register/3126916919232304399</a>	

Date of intended adoption: 08/21/2020 (Note: This is NOT the effective date)

**Submit written comments to:**

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Email: <https://fortress.wa.gov/doh/policyreview>

Fax: 360-236-2901

Other: megan.maxey@doh.wa.gov

By (date) 08/14/2020

**Assistance for persons with disabilities:**

Contact Davis Hylkema

Phone: 360-236-4633

Fax:

TTY: 711

Email: davis.hylkema@doh.wa.gov

Other:

By (date) 08/14/2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to make additional amendments to 11 of the rules adopted in 2017 and to address the rules for education and continuing education requirements which were not amended in 2017. The anticipated effect is clarification to some of the amendments made in 2017 and increasing the initial education and training hours.

**Reasons supporting proposal:** A comprehensive review of the chapter was completed in 2017, with the exception of the education and training rule and the continuing education rule. The Board of Massage (board) recognizes the significant research and findings of the minimum education hours in correlation to public protection. The proposed increase in education hours reflects these findings. The board also recognizes that an increase in hours may create barriers for people seeking licensure by endorsement. The proposed amendments redefine "substantial equivalency" to recognize experience in lieu of education deficiencies. The board also recognizes the significant cost of not-compliance with continuing education requirements. The proposed amendments attempt to clarify options for continuing education activities. The board recognizes the importance of clinical experience prior to licensure. The proposed amendments make the student clinic mandatory for initial education and training. The proposed amendments to the breast massage and massage of the gluteal cleft and perineum rules protect the public by providing specificity of the additional training requirements that licensed massage therapist must obtain prior to performing these modalities. Furthermore, the additional layers of consent to treat these areas will better protect the public and give the department more enforceable tools.

**Statutory authority for adoption:** RCWs 18.108.025 and 18.108.085

**Statute being implemented:** Chapter 18.108 RCW

**Is rule necessary because of a:**

Federal Law?

Yes  No

Federal Court Decision?

Yes  No

State Court Decision?

Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization)

Board of Massage and Department of Health

Private

Public

Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Megan Maxey	111 Israel Rd SE, Tumwater, WA 98501	360-236-4945
Implementation:	Megan Maxey	111 Israel Rd SE, Tumwater, WA 98501	360-236-4945
Enforcement:	Megan Maxey	111 Israel Rd SE, Tumwater, WA 98501	360-236-4945

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Megan Maxey

Address: PO Box 47852

Olympia, WA 98504-7852

Phone: 360-236-4945

Fax: 360-236-2901

TTY: 711

Email: [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov)

Other:

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |   |  |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency’s analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:  
A small business economic impact statement has been prepared. The rule proposal may impose more than a minor cost to businesses.

**SECTION 1:**

**Describe the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.**

**Brief Description of Proposed Rules with Potential Costs**

Rule	Brief Description of Change	Probable compliance requirements
WAC 246-830-037 Transfer programs and transfer of prior education and clock hours.	Require students to pass written and practical tests and to update the language based on amendments of other sections of rule	Developing and administering written and practical tests if not already requiring it.
WAC 246-830-420 Approval of massage	Further define the role of the clinical supervisor and	Hiring additional staff or increasing the current staff's

school, massage program, or apprenticeship program.	reduce the student to faculty ratio in the student clinic.	working hours if the school's student to teacher ratio needs to be reduced.
WAC 246-830-430 Training.	Increasing the minimum education and training hours and adding increased specificity to subject matter requirements.	Revising the program's curriculum and making changes to classroom materials if they do not already meet the standards.
WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic.	Changing the student clinic standard from an optional program to a mandatory requirement for massage school approval.	Developing the student clinic. Hiring additional staff or increasing current staff's working hours.
WAC 246-830-475 Continuing education requirements.	Revising the continuing education requirements.	Completing a CPR certification course.
WAC 246-830-565 Recordkeeping.	puts a clear limit on the length of time that a written consent to treat is valid for	Updating intake forms.

#### **Brief Description of Proposed Rules without Potential Costs**

<b>Rule</b>	<b>Brief Description of Change</b>
WAC 246-830-005 Definitions.	Adds new definitions to define terms used throughout the chapter
WAC 246-830-020 Applications.	Adds language to clarify existing application requirements, and repeals requirement to provide proof of AIDS education to reflect changes in law.
WAC 246-830-035 Licensing for out-of-state applicants.	Further define substantial equivalency and to update the language based on amendments of other sections of rule
WAC 246-830-550 Standards of practice—Limitations.	Revises the standards of practice to be more specific about the limitations of massage of certain parts of the body
WAC 246-830-555 Breast massage.	Clarifies the client or patient consent requirement  Clarifying the additional training hours that are required prior to performing breast massage

WAC 246-830-557 Massage of the gluteal cleft or perineum.	Removes language from the standards of practice limitations rule to create a new rule specific to massage of the gluteal cleft and perineum
WAC 246-830-560 Coverage and draping.	Adds minor, clarifying changes in relation to the sanitation requirements of the linens that are used for draping
WAC 246-830-570 Record retention.	Clarifies that the massage therapist is not necessarily the owner of the records, the records must be accessible to the massage therapist, and the massage therapist will not be in violation if they have made a good faith attempt to obtain the records

**SECTION 2:**

**Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.**

**Table A:**

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll
611519	Other technical and trade schools	33	\$3,065.31

Additional administrative costs could be incurred to update school curriculum and/or hire new staff or increase working hours of current staff.

Survey Question	Mean	Median
In relation to staff time, what would be the cost to update your program and/or catalog/curriculum?	\$2,279.79	\$250.00
Would the change of ratio in the student clinic have a fiscal impact for you?	\$7,474.08	\$544.00
<b>Totals</b>	<b>\$9,753.87</b>	<b>\$794.00</b>

Contact the Board of Massage staff for a copy of the spreadsheet for the survey responses. These averages reflect to cost estimates from those responses.

**SECTION 3:**

**Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.**

## A. WAC 246-830-035 Licensing for out-of-state applicants. (Amended)

**Rule Overview:** Title change to *Licensing by endorsement for out-of-state applicants*.

The current rule allows people who hold a massage license in another state or jurisdiction to become licensed in Washington if that state's or jurisdiction's licensing requirements are substantially equivalent to Washington's. The current rule defines substantial equivalency as a minimum of 500 hours of education and training at a board approved massage program. \* *Note that under WAC 246-830-430, the board is proposing to increase the minimum number of training hours from 500 to 625.*

In order to create flexibility for out-of-state applicants seeking licensure in Washington while maintaining public safety, the proposed amendment changes the definition of substantial equivalency to one of the following:

- A minimum of 625 hours of education and training at a board-approved program completed in no less than 24 weeks, or
- A minimum of 500 hours of education and training at a board-approved school and two years of practice experience and 24 hours of continuing education completed within two years prior to making application.

### **Rule Cost:**

Potential costs will vary based on the applicant's qualifications:

- If the applicant meets one of the definitions of substantial equivalency, then there will be no additional cost to comply with the rule.
- If the applicant has completed a training program of 500-624 hours in length but does not have two years of massage practice experience, then the applicant would have to incur the cost of either completing a board-approved transfer program or a board-approved full program.
- If the applicant has completed a training program with more than 625 hours but in less than 24 weeks, then the applicant will incur the cost to complete a board-approved transfer program or a board-approved full program.

The cost for a full board approved program ranges from \$7,000 to \$16,000, or an average of \$15.70 per credit hour. The cost per credit hour for transfer programs range from \$18-20 plus a flat fee of \$700-800.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the school. Any potential costs are associated with the applicant obtaining a massage license.

## B. WAC 246-830-037 Transfer programs and transfer of prior education and clock hours (Amended)

**Rule Overview:** Title change to *Transfer programs and transfer of credit or clock hours for prior education and training*.

The board is proposing language that mandates transfer programs require their students to pass a written and practical test at the time of enrollment in order to determine potential deficiencies. The proposed language also clarifies that if there are missing components or if the applicant cannot pass the required testing, then the applicant must successfully complete those deficient components.

**Rule Cost:** The cost to comply with this rule will vary based on the program's current structure. The responses we received from transfer programs that do not require the student to pass a written and practical test prior to enrollment indicate a projected increase of the program fee from \$40 per hour to a flat fee of \$150.

**Potential loss of sales/revenues:** Of the survey responses received, two of the schools offer a transfer program. Neither school indicated a potential loss of sales or revenues.

### C. WAC 246-830-420 Approval of massage school, massage program, or apprenticeship program (Amended)

**Rule Overview:** The objective of the rule is to outline the standards to become a board-approved program. The current rule language for the student clinic standard is vague in regards to duties of the clinical supervisor. The current language states:

- The student clinic must be supervised by a clinical supervisor who is a licensed massage therapist with at least two years of practical experience, and
- The clinical supervisor is responsible for reviewing the health history of the student's client/patient.

The proposed language clarifies the following standards for a student clinic:

- The student clinic must be under direct supervision of a clinical supervisor who is a licensed massage therapist with at least three years practical experience.
  - The increase from two to three years of practical experience creates uniformity throughout the chapter. The board felt that a minimum of three years of practical experience is necessary for an instructor to offer qualified feedback to a student. This was discussed extensively with stakeholders. They provided positive feedback on the change from two to three years.
- In addition to reviewing the student's client or patient health history, the clinical supervisor must also review and approve the student's massage plan then observe a reasonable portion of each massage session based on the competency of the student.
- In order to provide clear and meaningful feedback, the number of students per clinical supervisor is reduced from ten to six.

**Rule Cost:** The cost to reduce the student to teacher ratio will vary across the schools based on their current structure. The survey results indicate a projected increase of \$0-1,000 per program. While one program indicated a projected increase of \$2,100 for the student clinic, the program also noted that its student clinic faculty is paid \$42 per hour. This appears to be an outlier, according to the Bureau of Labor Statistics, the annual mean wage for instructors at professional schools is listed at \$21.76 per hour.

Based on information provided by AMTA-WA, the following is an overview of what happens in an appropriately supervised clinic:

- 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.

Student clinic massages typically range from 30-90 minutes. If there are six students each performing an hour long massage, then the clinical supervisor has 10 minutes to observe each massage in progress in addition to doing anything else necessary while the patient is present. With a ratio of one supervisor to ten students this observation time is reduced to six minutes per student.

**Potential loss of sales/revenues:** Some of the schools indicated a potential cost associated with the rule. However, no school indicated a potential loss of sales or revenues.

**D. WAC 246-830-430 Training (Amended)**

**Rule Overview:** Title changed to *Education and Training*.

The board is proposing to increase the education and training hours required in a massage school from 500 to 625. This change will align Washington with the recommended national best practices for minimum training hours established in the Entry Level Analysis Project (ELAP). ELAP is a research project initiated by the Coalition of National Massage Therapy Organizations. The project's goal is 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. It is significantly more detailed than the current rule language and considered the best practice within the United States massage educational system.

The proposed amendments also puts a minimum and maximum number of hours for student clinic. As outlined in the ELAP, a minimum of 50 hours in the student clinic allows the student to receive sufficient practical experience while in a supervised setting. The maximum number of hours in a student clinic is capped at 75 due to the concern of schools taking advantage of students. Schools can charge clients in the student clinic, but students are not allowed to receive compensation.

**Rule Cost:** There are 51 board approved massage programs as follows:

- 18 programs have 500-624 hours
- 33 programs are at or greater than 625 hours

Because 65 percent of massage programs in the state are already at or above 625 hours they will not incur additional costs to add new instruction time and faculty. These programs will need to ensure their training hours are aligned with the new rules. If they are not in alignment, then these schools will incur a one-time cost to adjust the curriculum in subjects with deficiencies. There is no cost for the schools to apply for board approval. If a school's hours change, then the school must submit the revised catalog to the Workforce Training and Education Coordinating Board for approval. There are no costs associated with approval from the Workforce Board.

For schools below 625 hours the survey responses indicated a range of a projected one-time cost from \$0-7,000 in administrative costs to conduct a program review and change program materials with a possible increase in the tuition.

While schools will incur both one-time and ongoing costs, there is a demonstrable positive effect on student outcomes as demonstrated by pass rates for the national exam. Data provided by the Federation of State Massage Therapy Boards provides information about the national exam pass rate in correlation to the number of training hours. The national exam is written as an entry level exam.

Training hours	First time test taker pass rate	Pass rate for all test takers
500-570 hours	75.19%	69.82%
600-650 hours	81.18%	75.08%
700-750 hours	77.68%	71.22%
1000+ hours	70.63%	65.50%

**Potential loss of sales/revenues:** Some of the schools indicated a potential cost associated with the rule. However, no school indicated a potential loss of sales or revenues.

**E. WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic (Amended)**

**Rule Overview:** The proposed language clarifies that the rule applies to massage schools and massage programs in addition to the apprenticeship programs. It also requires the faculty member(s) to have three years of experience in the subject matter being taught. To align with the updates to WAC 246-830-430, the proposed language makes the student clinic mandatory.

**Rule Cost:** For 98 percent of the current board approved schools the costs to comply with this rule are minimal to none as the schools already have supervised student clinics.

The department is aware of one school that does not offer a supervised student clinic. Those students are required to complete 75 hours of independent massage practice and purchase their own massage tables and linens. The students are not supervised by instructors and this could pose a risk to public safety as the students have not demonstrated competency to practice independently by passing the national exam.

Review of the school's web site revealed students are currently required to purchase a portable massage table and supplies. The school would need to provide supervisor time and a space for the student clinic. As previously stated, the Bureau of Labor Statistics indicates the annual mean wage for instructors at professional schools is listed at \$21.76 per hour. This would be an increase of \$1,088 - \$1,632, assuming a 50-75 hour student clinic.

**Potential loss of sales/revenues:** Some of the schools indicated a potential cost associated with the rule. However, no school indicated a potential loss of sales or revenues.

**F. WAC 246-830-475 Continuing education requirements (Amended)**

**Rule Overview:** The current rule only requires that individuals who provide "specialized training" to have two years of experience. The new language mandates that all individuals providing continuing education have at least three years of professional experience. The proposed rule also clarifies that the direct supervised training must be in person and involve the direct application of massage therapy. The proposed language also requires therapists to maintain CPR certification.

**Rule Cost:** The costs to licensees will be minimal because the number of hours per reporting period does not increase. The potential cost is the requirement to maintain CPR certification. Research shows that CPR certification courses cost anywhere from free to \$60. Additionally, based on the department's continuing education audits, the majority of therapists already do this.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the schools. Any potential costs are associated with requirements for the licensee to maintain an active license.

**G. WAC 246-830-555 Breast massage (Amended)**

**Rule Overview:** The proposed rule is reorganized for readability purposes. The proposed language adds a requirement for verbal informed consent in addition to the current requirement of signed written consent.

**Rule Cost:** There is no cost to comply with these amendments.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the schools.

**H. WAC 246-830-557 Massage of the gluteal cleft or perineum (New)**

**Rule Overview:** The proposed rule language for the new section is moved from the current language in WAC 246-830-550. That section currently requires a massage therapist practicing on a patient's gluteal cleft or perineum to complete 16 hours of specialized training and obtain both written and verbal informed consent before treatment.

The new language adds specific requirements for what topics must be included in the sixteen hours of education and training beyond the minimum competencies in order to ensure patient safety. Massage practitioners 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.

**Rule Cost:** The current rule requires that a therapist receive 16 hours of specialized training beyond the minimum competencies to perform massage of the gluteal cleft and perineum, so there is no additional cost to comply with this rule.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the schools.

**I. WAC 246-830-560 Coverage and draping (Amended)**

**Rule Overview:** The proposed language adds that coverage and draping practices must be safe, functional, and hygienic. Current language only states safe and functional. It also adds language that requires all linens to be maintained in accordance with WAC 246-830-500.

**Rule Cost:** There are no costs to comply with these amendments.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the business.

**J. WAC 246-830-565 Recordkeeping (Amended)**

**Rule Overview:** The rule requires all massage therapists to document treatment provided. The proposed amendments put a time limit on how long written consent is valid for and include additional recordkeeping requirements for massage of the gluteal cleft or perineum.

**Rule Cost:** There may be minimal costs to comply with this rule if intake forms need to be updated.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the business.

**K. WAC 246-830-570 Record retention (Amended)**

**Rule Overview:** The proposed language clarifies that client or patient records must be retained by or otherwise accessible to the massage therapist. It also clarifies that the retainer of the records is not necessarily the massage therapist. Finally, it clarifies that a massage therapist will not be in violation of the rule if they are unable to access client or patient records after making a good faith attempt to do so.

**Rule Cost:** There are no costs to comply with the changes.

**Potential loss of sales/revenues:** There is no potential loss of sales or revenue to the business.

**SECTION 4:**

**Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.**

Based on the survey response, some of the proposed rules may impose more than minor costs on businesses that would need to hire additional staff and/or update the curriculum.

Four schools indicated they would need to hire new staff or increase the current staff's hours. The costs associated with staffing ranged from \$6,789 - \$45,260.

Five schools indicated a one-time cost to update the school's curriculum. These costs ranged from \$500 - \$20,000.

**SECTION 5:**

**Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.**

Some of the proposed changes may have a disproportionate impact on small businesses.

To consider the impact on small businesses, we analyzed the top 10% of large businesses who responded to the survey. The information below provides the total and average costs between the small vs. large businesses.

	<b>Range of Total Costs Reported</b>	<b>Average of Total Costs Reported</b>
Small Businesses	\$0 - \$65,260	\$11,363.73
Large Businesses	\$1,500 - \$7,877	\$3,851.04

**SECTION 6:**

**If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs can not be reduced provide a clear explanation of why.**

**Increase in Education and Training Hours**

The costs cannot be reduced because there are potential costs associated with making any change to a program. Data shows that increasing the education hours produces more competent massage therapists.

The increase in education hours will align Washington with the recommended national best practices for minimum training hours established in the Entry Level Analysis Project (ELAP). ELAP is a research project initiated by the Coalition of National Massage Therapy Organizations. The project's goal is 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.

While schools may incur both one-time and ongoing costs, there is a demonstrable positive effect on student outcomes as demonstrated by pass rates for the national exam. Data provided by the Federation of State Massage Therapy Boards provides information about the national exam pass rate in correlation to the number of training hours:

<b>Training hours</b>	<b>First time test taker pass rate</b>	<b>Pass rate for all test takers</b>
500-570 hours	75.19%	69.82%
600-650 hours	81.18%	75.08%
700-750 hours	77.68%	71.22%
1000+ hours	70.63%	65.50%

The national exam is written as an entry level exam. The increase in hours is a benefit to public protection because more therapists will be able to pass the exam during their first attempt, demonstrated that their school is providing an education that better meets the minimum competency standards established for the profession.

**Student Clinic**

The potential costs to lower the student to teacher ratio in the student clinic cannot be reduced. Adding staff or increasing their hours will inevitably trigger an increase to the payroll.

Student clinic massages typically range from 30-90 minutes. If there are six students each performing an hour long massage, then the clinical supervisor has 10 minutes to observe each massage in progress in addition to doing anything else necessary while the patient is present. With a ratio of one supervisor to ten students this observation time is reduced to six minutes per student. The benefit of reducing the student to teacher ratio in the student clinic is to provide meaningful direct supervision to students to ensure graduates have met the minimum competency standards to practice safely.

**SECTION 7:**

**Describe how small businesses were involved in the development of the proposed rule.**

To gather information from stakeholders about the proposed rule to increase education and training hours, the department sent two surveys to the 33 board-approved massage schools. The survey asked about projected costs and impact to licensees to implement the proposed amendatory language.

**SECTION 8:**

**Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.**

Based on the survey responses, the department anticipates that up to four massage schools would increase the number of employees. No schools indicated a loss of employees.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Megan Maxey  
Address: PO Box 47852, Olympia, WA 98504-7852  
Phone: 360-236-4945  
Fax: 360-236-2901  
TTY: 711  
Email: [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov)  
Other:

<b>Date:</b> 06/26/2020	<b>Signature:</b> 
<b>Name:</b> Jessica Todorovich for John Wiesman, DrPH, MPH   Renee Fullerton	
<b>Title:</b> Secretary of Health   Executive Director	

**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).

**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) If components are missing(~~(r)~~) 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(~~(r)~~); 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 ~~((7 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 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 apprentice-

ship 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 one instructor to no more than six students administering massage. 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 (~~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 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) 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 un-

less 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 ~~((r))~~ and verbal ~~((r and signed))~~ informed consent ~~((ef))~~ 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

(l) 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~~

~~(l) 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 ac-

cess the records after a good faith attempt has been made to obtain the records.