

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE

- \* The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- \* Please address questions regarding information on this notice to the agency.
- \* The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- \* The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	47b	-	
Changed to Admin. Code Ref. (R no.):	R		-		-	

<b>1.</b>	<b>Agency:</b>	Commerce/Division of Occupational and Professional Licensing			
	<b>Room no.:</b>				
	<b>Building:</b>	Heber M. Wells Building			
	<b>Street address 1:</b>	160 East 300 South			
	<b>Street address 2:</b>				
	<b>City, state, zip:</b>	Salt Lake City UT 84111-2316			
	<b>Mailing address 1:</b>	PO Box 146741			
	<b>Mailing address 2:</b>				
	<b>City, state, zip:</b>	Salt Lake City UT 84114-6741			
	<b>Contact person(s):</b>				
	<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>	<b>E-mail:</b>	
	Dane Ishihara	801-530-7632	801-530-6511	dishihara@utah.gov	

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

<b>2.</b>	<b>Title of rule or section (catchline):</b>	Massage Therapy Practice Act Rule			
<b>3.</b>	<b>Type of notice:</b>	New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___			
<b>4.</b>	<b>Purpose of the rule or reason for the change:</b>	The purpose of this filing is to define scopes of practice for exemptions to licensure added to Title 58, Chapter 47b during the 2014 Legislative Session in H.B. 207. Also, the filing removes the Utah Massage Law and Rule Exam licensure requirement in order to increase license processing efficiency.			
<b>5.</b>	<b>This change is a response to comments from the Administrative Rules Review Committee.</b>	No XXXX; Yes ___			
<b>6.</b>	<b>Summary of the rule or change:</b>	Section 102: Definitions for body wrap, industry organization and ortho-bionomy are added. Section 302b: Amendments in this section delete the Utah Massage Law and Rule Exam as a licensure requirement.			
<b>7.</b>	<b>Aggregate anticipated cost or savings to:</b>				
	<b>A) State budget:</b>				
	<b>Affected:</b>	No ___; Yes XXX			

The Division will incur minimal costs of approximately \$75.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. It should also be noted that additional costs of regulatory enforcement were included in the Legislation's consideration when passing HB 207.

**B) Local government:**

**Affected:** No ; Yes XXXX

The proposed amendments only apply to individuals who are exempt from licensure under Title 58, Chapter 47b and applicants for licensure as either a massage therapist or massage apprentice. The proposed amendments with respect to individuals who are exempt from licensure may aid local governments in determining qualification for business licensure and enforcement. The Division is not able to determine an exact cost or savings due to varying circumstances or frequency involving local business licensure and enforcement.

**C) Small businesses ("small business" means a business employing fewer than 50 persons):**

**Affected:** No \_\_\_; Yes XXXX

The proposed amendments only apply to individuals who are exempt from licensure under Title 58, Chapter 47b. If the exempted scopes of practice are currently being performed by individuals who may operate as a small business, there may be an unknown cost. The Division is not able to determine an exact cost due to the varying circumstances of each individual or business or the frequency involving the exempted scopes of practice.

**D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):**

**Affected:** No XXX Yes \_\_\_

The proposed amendments apply only to individuals who are exempt from licensure under Title 58, Chapter 47b. The proposed amendments clarify exempted scopes of practice to the benefit and safety of the public.

**8. Compliance costs for affected persons:**

The proposed amendments should not increase compliance costs for licensed massage therapists and massage apprentices or applicants for licensure in those classifications. It should be noted that there was no fee associated with the Utah Massage Law and Rule Examination. This examination is only an open book, part of the application for licensure as either a massage therapist or massage apprentice. If the exempted scopes of practices are currently being performed by individuals, there may be an unknown costs to those persons. However, the Division is not able to determine an exact cost due to the varying circumstances of each individual or the frequency involving the exempted scopes of practice.

**9. A) Comments by the department head on the fiscal impact the rule may have on businesses:**

As stated in the rule analysis, this filing adds new definitions to reflect industry developments and deletes existing language that requires an applicant for licensure to pass the Utah Massage Law and Rule Exam. It is anticipated that these changes will affect individuals, both those working toward licensure and those practicing within the profession, with no fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Francine A. Giani, Executive Director

**10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.**

**State code or constitution citations (required)** (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Section 58-47b-101	
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**11. This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>		
<b>Publisher</b>		
<b>Date Issued</b>		

	<b>Issue, or version</b>		
	<b>ISBN Number (optional)</b>		
	<b>ISSN Number (optional)</b>		
	<b>Cost of Incorporated Reference</b>		
	<b>Action: Adds, updates, or removes</b>		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
<b>12.</b>	<b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	<b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b>	12/15/2014	
	<b>B) A public hearing (optional) will be held:</b>		
	<b>On (mm/dd/yyyy):</b>	<b>At (hh:mm AM/PM):</b>	<b>At (place):</b>
	11/18/2014	8:45 AM	160 East 300 South, Conference Room 474, Salt Lake City, Utah
<b>13.</b>	<b>This rule change may become effective on (mm/dd/yyyy):</b>	12/22/2014	
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
<b>14.</b>	<b>Indexing information -- keywords</b> (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
	licensing	massage therapy	
	massage therapist	massage apprentice	
<b>15.</b>	<b>Attach an RTF document containing the text of this rule change (filename):</b>	R156-47b.pro	
<b>To the agency:</b> Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
<b>AGENCY AUTHORIZATION</b>			
<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date (mm/dd/yyyy):</b>	10/14/2014

**R156. Commerce, Occupational and Professional Licensing.**

**R156-47b. Massage Therapy Practice Act Rule.**

**R156-47b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or this rule:

(1) "Accrediting agency" means an organization, association or commission nationally recognized by the United States Department of Education as a reliable authority in assessing the quality of education or training provided by the school or institution.

(2) "Body wrap" means a body treatment which:

(a) may include one or more therapeutic preparations;

(b) is not for cosmetic purposes; and

(c) involves covering the body fully or partially with material.

(3) "Clinic" means performing the techniques and skills learned as a student under the curriculum of a registered school or an accredited school on the public, while in a supervised student setting.

(~~3~~4) "Direct supervision" as used in Subsection 58-47b-302(3)(e) means that the apprentice supervisor, acting within the scope of the supervising licensee's license, is in the facility where massage is being performed and directs the work of an apprentice pursuant to this chapter under Subsection R156-1-102a(4)(a) while the apprentice is engaged in performing massage.

(~~4~~5) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, outside a school of massage meeting the standards in Section R156-47b-302 including internet, audio/visual recordings, mail or other correspondence.

(~~5~~6) "FSMTB" means the Federation of State Massage Therapy Boards.

(~~6~~7) "Hands on instruction" means direct experience with or application of the education or training in either a school of massage therapy or apprenticeship.

(8) "Industry organization", as used in Subsection 58-47b-304(1)(m), means any of the following organizations:

(a) American Footzonology Practitioners Association (AFZPA);

(b) American Reflexology Certification Board (ARCB);

(c) Reflexology Association of America (RAA);

(d) Society of Ortho-Bionomy International; or

(e) Utah Foot Zone Association.

(~~7~~9) "Lymphatic massage" means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

(~~8~~10) "Manipulation", as used in Subsection 58-47b-102(6)(b), means contact with movement, involving touching the clothed or unclothed body.

(~~9~~11) "Massage client services" means practicing the techniques and skills learned as an apprentice on the public in training under direct supervision.

(~~10~~12) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(13) "Ortho-Bionomy" means a structural and neurological system of healing exempt from licensure in accordance with Subsection 58-47b-3034(1)(m) limited to:

(a) non-invasive, gentle movement;

(b) comfortable positioning;

(c) brief compression; and

(d) subtle contact to stimulate self-correcting reflexes to:

(i) relax muscles;

(ii) release tension;

(iii) relieve joint and muscle pain;

(iv) reduce stress; and

(v) re-establish structural alignment.

(~~11~~14) "Recognized school" means a school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that jurisdiction.

(~~12~~15) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(1)(e) in Section R156-47b-502.

#### **R156-47b-302b. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsections 58-47b-302(2)(f) and 58-47b-302(3)(f), the examination requirements for licensure are defined, clarified, or established as follows:

(1) Applicants for licensure as a massage therapist shall~~+~~

~~(a) pass the Utah Massage Law and Rule Examination; and~~

~~(b)~~ pass one of the following examinations:

(~~1~~a) the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);

(~~2~~b) the National Certification Examination for Therapeutic Massage (NCETM);

(~~3~~c) the National Examination for State Licensure (NESL); or

(~~4~~d) the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBLEx).

(2) Applicants for licensure as a massage therapist who have completed a "Utah Massage Apprenticeship" shall pass the FSMTB MBLEx. [

~~(3) Applicants for licensure as a massage apprentice shall pass the Utah Massage Law and Rule Examination.]~~

**KEY: licensing, massage therapy, massage therapist, massage apprentice**  
**Date of Enactment or Last Substantive Amendment: [January 26, 2012] 2014**  
**Notice of Continuation: May 1, 2012**  
**Authorizing, Implemented, or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101**