

This report is a publication of the Nevada Chapter of the American Massage Therapy Association - the AMTA-NV Chapter is solely responsible for its content. It is intended for member notification of the official proceedings of the Nevada State Board of Massage Therapy and is available to the general public when posted on the chapter's website at amta-nv.org and is not intended to take the place of the official Minutes of the NSBMT. The official NSBMT Minutes are [available on their website](#) approximately 30 days after the date of the corresponding Meeting or corresponding Approval of the Minutes of a particular Meeting. Requests for NSBMT Meeting Minutes and audio recordings can be made to nvmassagebd@state.nv.us.

This is a brief overview of public proceedings during the Special Meeting of the Nevada State Board of Massage Therapy (NSBMT) regarding the NSBMT's actions that affect its licensees, the profession of massage therapy, reflexology, and structural integration, and the Public in Nevada. Items are reported on in the order on the Agenda, but may have been addressed out of this order. Specific information regarding Disciplinary hearings and/or Items and Public Comment may not be a part of this report.

All supporting and referred-to Documents are attached to these AMTA-NV Chapter Notes as they were published on the NSBMT's website as of 12/7/2020.

>> begin report

Locations of Meeting: see attached NSBMT Agenda

Date of NSBMT Meeting: 12/7/2020

Meeting Start Time: 1:00pm

- Item #1: Called to Order at 1:00pm. All Board Members except Lorna Benedict were present, including Sandy Anderson, Executive Director (ED), and Harry Ward, Deputy Attorney General (DAG).
- Item #2: Read.
- Item #3: none.
- Item #4: Sponsors have been approached; during this upcoming Session, no Sponsor will support a BDR that includes Board-mandated Fees that will impact the licensees. Neena Laxalt explained that in consideration of current state Budget considerations and assessment of all Boards' Reserve-levels, any mention of Fees in a BDR will likely cause it to die in process. Unanimous Approval for removal of Fees from BDR.
- Item #5: Unanimous Approval.
- Item #6: Bianca Smith presents improving regulation regarding Education concurrent with current massage programs in the state, including on-site Clinic Inspection.
- Item #7: n/a.
- Item #8: Adjourned at 1:33pm.

Respectfully submitted,
David Otto, Chair - Government Relations Committee

>>end report



Nevada State Board of Massage Therapy

NOTICE OF PUBLIC MEETING

SPECIAL MEETING AGENDA

LOCATIONS: Pursuant to Governor Steve Sisolak's Emergency Directive 006, there will be no physical location for this meeting. Participants can join the meeting via Zoom.

Register in advance for this meeting:

<https://zoom.us/j/92682985935?pwd=MTkyKzM0d3pDOGFuVENYNVEzMIBwUT09>

After registering, you will receive a confirmation email containing information about joining the meeting.

Meeting ID 926 8298 5935
Password 400929
SIP 92682985935@zoomcrc.com

Join by phone Dial by your location

+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Germantown)
+1 312 626 6799 US (Chicago)

DATES AND TIMES: **December 7, 2020 commencing at 1:00 p.m.**

Zoom sign-in available at 12:30 a.m.

AGENDA

Please Note: The Nevada State Board of Massage Therapy may: 1) take agenda items out of order; 2) combine two or more items for consideration; or 3) remove an item from the agenda or delay discussion related to an item at any time. Reasonable efforts will be made to assist and accommodate individuals with

disabilities who wish to attend the meeting. Please contact Sandy Anderson at 775.687.9951 (sjanderson@lmt.nv.gov), in advance, so that arrangements may be made. Public comment will be taken at the beginning and the end of the meeting. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person (NRS 241.030).

Public Comment Agenda Item: There is a time designated at the beginning of the meeting and the end of the meeting for Public Comment. Members of the general public may bring matters not appearing on this Agenda to the attention of the Board or make comment on specific agenda items. Public comment also may be taken at other such times as requested as long as the request for public comment will not interrupt ongoing Board business. The Board may discuss the matters not on the Agenda but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others who may also wish to provide public comment, please avoid repetition. The Board reserves the right to limit public comment to three (3) minutes.

Prior to the commencement and conclusion of a contested case or quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment (see NRS 233B.126). Please be aware that after the quasi-judicial Board has rendered a decision in the contested case, and assuming this happens before adjournment, the Board may entertain public comment on the proceeding at that time.

1. Call to order and roll call of Board Members.
2. Mission Statement of the Nevada State Board of Massage Therapy – To protect the public health, safety, and welfare through effective massage therapy regulation. Insuring that qualified, competent, ethical practitioners are licensed.
3. Public comment – Members of the public who wish to participate in a public meeting may do so by providing public comment during the two designated public comment periods. Additionally, public comment options may include, without limitation, telephonic or email comment. Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting. The Board will not restrict comments based on viewpoint. The opportunity for public comment will be available at the beginning and ending of the meeting. (Discussion Only)
4. Discussion and possible action regarding modifications to proposed Bill Draft Request to eliminate fees for ethics class, jurisprudence exam, and third inspection. (For Possible Action)
5. Discussion and possible action regarding authorizing Kathleen Laxalt, Chair Diane Huleva, and Executive Director Sandy Anderson to represent the Board during the 81st Session of the Nevada State Legislature. (For Possible Action)
6. Discussion regarding recommended future agenda items. (For Discussion)
7. Public comment. (Discussion Only) Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting. The Board will not restrict comments based on viewpoint.

8. Adjournment. (For Possible Action)

Notices:

Items may be combined for consideration by the board. Items may be pulled or removed from the agenda at any time. Public comment will be taken at the beginning and at the end of the meeting. Regarding public comment, no vote may be taken upon a matter raised under this agenda item until the matter itself has been specifically included on a future agenda as an item upon which action may be taken (NRS 241.020). The Chair may allow comment on individual agenda items at her discretion. Please limit public comments to three (3) minutes.

The Nevada State Board of Massage Therapy may address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting. Interested persons may present oral and/or written comments at the time and place of the meeting, or written comments may be sent no later than **Friday, December 4, 2020** to sjanderson@lmt.nv.gov or to the following address: **Nevada State Board of Massage Therapy, 1755 E. Plumb Lane, Suite 252, Reno, NV 89502. To request supporting materials, please contact: Sandy Anderson, Executive Director at 775.687.9951 or via email: sjanderson@lmt.nv.gov.**

Persons/facilities who want to be on the mailing list must submit a written request every six months to the Board. We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Sandy Anderson at 775.687.9951 or sjanderson@lmt.nv.gov no later than 48 hours prior to the meeting.

In accordance with NRS 241.020, this public notice and agenda was posted on or before 9:00 a.m. December 2, 2020, at the following locations:

http://massagetherapy.nv.gov/About/Board_Meetings/Meetings/
<https://notice.nv.gov>

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 below.

Sec. 2. *Each massage, reflexology, and structural integration establishment must notify the Board in writing of any:*

- 1. Consumer complaint filed with the establishment against a licensee employed or under contract with the establishment.*
- 2. Disciplinary action taken by the establishment against the licensee as a result of a consumer complaint or any other action.*

(Section 2 provides for public safety by requiring establishments to report consumer complaints to the Board for investigation and possible disciplinary action.)

Sec. 3. *All applications for a license as a massage therapist, reflexologist, or structural integration practitioner expire one year from the date the application was started.*

(Section 3 provides for applications for licensure to expire when the applicant has not completed the process within one year from the date of applying. This reduces the number of applications that are pending for individuals that do not complete the background investigation, pass the examination, or do not provide proof of education.)

Sec. 4. NRS 640C.080 is hereby amended to read as follows:

640C.080 “Reflexology” means *an integrative health practice that maps a reflection of the body and uses* the application of a system of pressure *to neural pathways which assists the body to function optimally which is primarily* to the feet, ears and hands of the human body.

(Section 4 modifies the definition of reflexology to align with the definition used by the American Reflexology Certification Board.)

Sec. 5. NRS 640C.180 is hereby amended to read as follow:

640C.180 1. At the first meeting of each fiscal year, the members of the Board shall elect a Chair, Vice Chair and Secretary-Treasurer from among the members.

2. The Board shall meet at least quarterly and may meet at other times at the call of the Chair or upon the written request of a majority of the members of the Board.

3. The Board shall alternate the location of its meetings between the southern district of Nevada and the northern district of Nevada. For the purposes of this subsection:

(a) The southern district of Nevada consists of all that portion of the State lying within the boundaries of the counties of Clark, Esmeralda, Lincoln and Nye.

(b) The northern district of Nevada consists of all that portion of the State lying within the boundaries of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.

4. A meeting of the Board may be conducted telephonically or by videoconferencing. A meeting conducted telephonically or by videoconferencing must meet the requirements of chapter 241 of NRS and any other applicable provisions of law.

5. ~~Four~~ **Five** members of the Board constitute a quorum for the purposes of transacting the business of the Board, including, without limitation, issuing, renewing, suspending, revoking or reinstating a license issued pursuant to this chapter.

(Section 5 corrects the number of members to constitute a quorum.)

Sec. 6. NRS 640C.520 is hereby amended to read as follows:

NRS 640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter \$600

An application for a license 300

An application for a license without an examination 300

A background check of an applicant 600

The issuance of a license 400

The renewal of a license 350

The restoration of an expired license 500

The reinstatement of a suspended or revoked license 500

The issuance of a replacement license 75

The restoration of an inactive license 300

The issuance of a certification of a massage, reflexology and structural integration establishment as defined in NRS 640C.330 50

The renewal of a certification of a massage, reflexology and structural integration establishment as defined in NRS 640C.330 50

An ethics course offered by the Board \$200

A jurisprudence examination established by the Board \$500

A third inspection of a massage establishment, reflexology establishment or structural integration establishment \$150

2. If an applicant submits an application for a license by endorsement pursuant to NRS 640C.426, the Board shall collect not more than one-half of the fee specified in subsection 1 for the initial issuance of the license.

3. Subject to the limits provided by subsection 1, the Board:

(a) May adopt regulations that establish different fees for different types of licenses; and

(b) In establishing the different fees for different types of licenses, shall consider the income and opportunities for employment available to the holders of the different types of licenses.

4. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

(Section 6 provides for the Board to charge up to \$200 for an ethics course offered by the Board to ensure a comprehensive understanding of the statutes and regulations. Additionally, it allows for a jurisprudence exam to test the knowledge of the applicant and/or licensee. The Board plans to work with the Federation of State Massage Therapy Boards to administer the exam. The Board provides inspections on at least an annual basis for establishments to ensure compliance with sanitation regulations. When locations do not comply with the regulations and require multiple inspections within one year the Board would like to charge for the 3rd and all subsequent inspections resulting from noncompliance with NAC 640C.)

Sec. 7. NRS 640C.700 is hereby amended to read as follows:

NRS 640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, ~~[prostitution or any other sexual offense.]~~ a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy, reflexology or structural integration or a substantially similar business, or a crime involving moral turpitude;

4. *Has been arrested for a crime involving prostitution or any other sexual offense;*

5. Has engaged in or solicited sexual activity during the course of practicing massage, reflexology or structural integration on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

~~[5.]~~ 6. Has an alcohol or other substance use disorder;

~~[6.]~~ 7. Is, in the judgment of the Board, guilty of gross negligence in the practice of massage therapy, reflexology or structural integration;

~~[7.]~~ 8. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy, reflexology or structural integration;

~~[8.]~~ **9.** Has failed to provide information requested by the Board within 60 days after receiving the request;

~~[9.]~~ **10.** Has, in the judgment of the Board, engaged in unethical or unprofessional conduct;

~~[10.]~~ **11.** Has knowingly failed to report to the Board that the holder of a license or other person has engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy, reflexology or structural integration within 30 days after becoming aware of that conduct;

~~[11.]~~ **12.** Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

~~[12.]~~ **13.** Has solicited or received compensation for services relating to the practice of massage therapy, reflexology or structural integration that he or she did not provide;

~~[13.]~~ **14.** If the holder of the license is on probation, has violated the terms of the probation;

~~[14.]~~ **15.** Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he or she has received training in a specialty technique of massage, reflexology or structural integration for which he or she has not received training, practicing massage therapy, reflexology or structural integration under an assumed name and impersonating a licensed massage therapist, reflexologist or structural integration practitioner;

~~[15.]~~ **16.** Has operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or

(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

Ê This subsection applies to an owner or other principal responsible for the operation of the facility.

~~{16.}~~ 17. Has failed to comply with a written administrative citation issued pursuant to NRS 640C.755 within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to NRS 640C.757, within 15 business days after the hearing; or

~~{17.}~~ 18. Except as otherwise provided in subsection 16, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine, whichever occurs later.

(Sections 7 and 8 allows for the Board to address the increase in human trafficking and sexual misconduct in the practice of massage by addressing the persons arrested for prostitution by law enforcement. Frequently these cases are not prosecuted. Additionally, by retaining their licenses the individuals are then moved from location-to-location and state-to-state by traffickers.)

Sec. 8. NRS 640C.745 is hereby amended to read as follows:

NRS 640C.745 1. When conducting an investigation of a massage therapist, reflexologist or structural integration practitioner pursuant to this chapter, the Board or the Executive Director

may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction *or arrest* of the massage therapist, reflexologist or structural integration practitioner for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

2. Upon receiving a request from the Board or the Executive Director pursuant to subsection 1, the governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any information relating to the agency or court that is deemed confidential by the agency or court. Upon receiving the records from the governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist, reflexologist or structural integration practitioner pursuant to this chapter.

Sec. 9. This act becomes effective:

1. Upon passage and approval for purposes of adopting regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and
2. On July 1, 2021, for all other purposes.

SUMMARY

BILL DRAFT PROPOSAL

REQUESTED BY THE NEVADA STATE BOARD OF MASSAGE THERAPY

FOR 2021 LEGISLATIVE SESSION

- **Section 1**
 - *PROPOSAL amends Chapter 640C of NRS by adding thereto the provisions set forth as sections 2 and 3 below*
- **Section 2**
 - *PROPOSAL provides for public safety by requiring establishments to report consumer complaints to the Board for investigation and possible disciplinary action.*
- **Section 3**
 - *PROPOSAL provides for applications for licensure to expire when the applicant has not completed the process within one year from the date of applying. This reduces the number of applications that are pending for individuals that do not complete the background investigation, pass the examination, or do not provide proof of education.*
- **Section 4 (640C.080 “Reflexology”)**
 - *PROPOSAL modifies the definition of reflexology to align with the definition used by the American Reflexology Certification Board.*

- *Section 5*

- *PROPOSAL corrects the number of members to constitute a quorum.*

- ~~Four~~ *Five* members of the Board constitute a quorum

- *Section 6*

- *(Current Language) NRS 640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:*

- *PROPOSAL provides for the Board to charge up to \$200 for an ethics course offered by the Board to ensure a comprehensive understanding of the statutes and regulations. Additionally, it allows for a jurisprudence exam to test the knowledge of the applicant and/or licensee. The Board plans to work with the Federation of State Massage Therapy Boards to administer the exam. The Board provides inspections on at least an annual basis for establishments to ensure compliance with sanitation regulations. When locations do not comply with the regulations and require multiple inspections within one year the Board would like to charge for the 3rd and all subsequent inspections resulting from noncompliance with NAC 640C.*

- *An ethics course offered by the Board \$200*
 - *A jurisprudence examination established by the Board \$500*
 - *A third inspection of a massage establishment, reflexology establishment or structural integration establishment \$150*

- *Sections 7 and 8*
 - *Section 7 – (Current language)* NRS 640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:
 - *PROPOSAL allows for the Board to address the increase in human trafficking and sexual misconduct in the practice of massage by addressing the persons arrested for prostitution by law enforcement. Frequently these cases are not prosecuted. Additionally, by retaining their licenses the individuals are then moved from location-to-location and state-to-state by traffickers.*
 - *Has been arrested for a crime involving prostitution or any other sexual offense;*
 - *Section 7 – (Change to current language in blue)* NRS 640C.745 1. When conducting an investigation of a massage therapist, reflexologist or structural integration practitioner pursuant to this chapter, the Board or the Executive Director may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction *or arrest* of the massage therapist, reflexologist or structural integration practitioner for a crime involving violence, prostitution or any other sexual offense.