

I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

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Bill No. 351-31 (cor)

Introduced by:

D.G. RODRIGUEZ, Jr.

J.T. WON PAT, Ed.

M. SILVA TAIJERON

S. MABINI Ph.D

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AN ACT RELATIVE TO REGULATING THE PRACTICE OF
MESSAGE OR MESSAGE THERAPY IN GUAM, BY *ADDING*
A NEW ARTICLE 23 TO CHAPTER 12 OF TITLE 10, GUAM
CODE ANNOTATED; AND TO ADOPT AND CODIFY THE
RULES AND REGULATIONS FOR PRACTICE OF MESSAGE
AND MESSAGE THERAPY AS A NEW ARTICLE 16 OF
CHAPTER 4 - DIVISION 1, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 23 is hereby added to Chapter 12 of Title 10,
3 Guam Code Annotated, to read as follows:

4 "ARTICLE 23.

5 §122301. General Provisions.

6 §122302. Authority.

7 §122303. Purpose.

8 §122304. Definitions.

1 **§122305. Violation, Suspension, Revocation and Other Penalties.**

2 **§122306. Scope of Practice.**

3 **§122307. Qualifications for Licensure.**

4 **§122308. Grandfather Period for *Licensed Massage Therapist (LMT)*.**

5 **§122309. Qualifications for Certification.**

6 **§122310. Grandfather Period for *Certified Massage Therapist (CMT)*.**

7 **§122311. Exceptions to Licensure.**

8 **§122311.1 Exceptions, No License Required; *Suruhana* or *Suruhanu*.**

9 **§122312. Severability.**

10 **§122301. General Provisions.** This Article shall be known and may
11 be cited as the “Healing Art of Massage or Massage Therapy Act” (“Act”).

12 **§122302. Authority.** The Board shall promptly make all necessary
13 preparations for the implementation of this Act, including the preparation of
14 application forms, and the promulgation of any rules and regulations pursuant to
15 the Administrative Adjudication Law (Article 3- Rule Making Procedures, of
16 Chapter 9, Title 5, Guam Code Annotated), that the Board deems necessary in
17 order to implement this Act.

1 **§122303. Purpose.** The primary purpose of this Act is to protect the
2 public against unlawful practices by unlicensed or uncertified persons holding
3 themselves out as persons authorized to practice massage or massage therapy.

4 **§122304. Definitions.** As used in this Act:

- 5 (1) ***Board*** means the Guam Board of Allied Health Examiners.
- 6 (2) ***Certification*** means the procedure by which a Certified
7 Massage Therapist applies to the Board for approval to
8 practice massage or massage therapy.
- 9 (3) ***Certified Massage Therapist (CMT)*** means an individual who
10 is certified by the Board to practice massage or massage
11 therapy and who works under the supervision of a Licensed
12 Massage Therapist.
- 13 (4) ***Federation of State Massage Therapy Board (FSMTB)*** means
14 the organization of state regulators and educators who
15 developed the Massage and Bodywork Licensing Examination
16 (MBLEx).
- 17 (5) ***Licensed Massage Therapist (LMT)*** means a person who is
18 duly licensed by the Board to practice massage or massage
19 therapy. The title "Licensed Massage Therapist" shall apply
20 only to an individual not to a group, association, partnership,
21 corporation or other legal entity.
- 22 (6) ***Licensure*** means the procedure by which an LMT applies to
23 the Board for approval to practice massage or massage therapy.

1 (7) ***Massage or Massage Therapy*** means the systematic manual or
2 mechanical manipulations of the soft tissues of the body,
3 including hands on energy techniques and other benefits both
4 physical and mental, by such movements as rubbing, kneading,
5 pressing, rolling, slapping, and tapping, for therapeutic
6 purposes such as promoting circulation of the blood and
7 lymph, relaxation of muscles, relief from pain and restoration
8 of metabolic balance.

9 (8) ***Massage and Bodywork Licensing Exam (MBLEx)*** means a
10 recognized national board examination that meets a unified set
11 of nationally-verified, entry-level standards for the safe and
12 competent practice of massage or massage therapy developed
13 by FSMTB.

14 (9) ***National Certification Board for Therapeutic Massage and***
15 ***Bodywork (NCBTMB)*** means a nationally accredited
16 credentialing body established to set standards for those who
17 practice massage or massage therapy.

18 (10) ***National Certification Examination for Therapeutic Massage***
19 ***and Bodywork (NCETMB)*** means a nationally recognized
20 examination on massage or massage therapy developed and
21 offered by NCBTMB.

22 (11) ***Suruhana / Suruhanu*** respectively means an indigenous
23 female or male practitioner of Guam or the Northern Marianas
24 Islands who utilizes traditional native massage or massage

1 therapy and indigenous herbal medicines in the treatment of
2 ailments.

3 (12) *United States Department of Education (U.S. DOE)* means the
4 agency that recognizes regional and national accrediting
5 organizations as reliable authorities concerning the quality of
6 education or training offered by institutions of higher learning.

7 **§122305. Violation, Suspension, Revocation and Other Penalties.**

8 (1) It is unlawful for any person to engage or attempt to engage in the
9 occupation or practice of massage or massage therapy for
10 compensation without a current license or certification to practice
11 massage or massage therapy, issued pursuant to this Act.

12
13 (2) A violation of §122305(1) shall be subject to the criminal penalties
14 set forth in Title 10 GCA Chapter 12, and any other applicable
15 laws.

16 (3) The Board shall have the authority to deny, suspend, or revoke a
17 license or certification or impose other civil penalties set forth in
18 Title 10 GCA Chapter 12, and any other applicable laws.

19 **§122306. Scope of Practice.** All LMTs and CMTs shall follow
20 NCBTMB's Code of Ethics and standards of practice. Only LMTs will determine
21 whether massage or massage therapy is appropriate or contraindicated for clients.

22 (1) The practice of massage or massage therapy shall not include:

1 (A) The diagnosis of diseases or prescribing of treatments for
2 disease or injury.

3 (B) The adjustment or manipulation of the articulations of the
4 osseous structures of the body or spine.

5 (C) The practice of colonic irrigation.

6 (2) A *Licensed Massage Therapist's (LMT)* scope of practice
7 includes, but is not limited to:

8 (A) Evaluation and treatment of the systematic manual or
9 mechanical manipulations of the soft tissues of the body (as
10 previously set forth in §122304(7) of this Act).

11 (B) Supervision of no more than ten (10) CMTs at any one
12 time.

13 (3) A *Certified Massage Therapist's (CMT)* scope of practice is
14 restricted to massage or massage therapy as part of the treatment plan
15 formulated by an LMT. A CMT shall work only under the
16 supervision of an LMT.

17 **§122307. Qualifications for Licensure** . Any person desiring to
18 practice as an LMT in Guam shall apply to the Board as set forth in Title 10 GCA
19 Chapter 12.

20 (1) A *Licensed Massage Therapist (LMT)* shall:

21 (A) be at least eighteen (18) years of age;

1 (B) complete a minimum of five hundred (500) hours of
2 supervised, in-class initial massage or massage therapy training,
3 which must include the study of anatomy and physiology, the
4 theory and practice of massage or massage therapy, and elective
5 subjects verified as approved or deemed equivalent to standards
6 upheld by NCBTMB, FSMTB or U.S.DOE;

7 (C) receive a passing grade on the NCETMB or MBLEx; and

8 (D) not have been convicted in any court of competent
9 jurisdiction of:

10 (i) any felony during the past ten (10) years immediately
11 preceding the application for licensure;

12 (ii) any crime of moral turpitude regardless of the
13 degree of offense; or

14 (iii) any sex crime regardless of the degree of offense.

15 (2) ***Licensure by Endorsement.*** Any person holding a valid current
16 license in the practice of massage or massage therapy from another United
17 States jurisdiction and desiring licensure by endorsement shall:

18 (A) possess and show proof of a notarized copy of a valid
19 current license from another jurisdiction of the United States;

20 (B) arrange for and ensure that official verification of a valid
21 current license from another jurisdiction of the United States be
22 sent from the licensing jurisdiction directly to the Board; and

1 (C) meet the requirements as set forth by the Board in
2 §122307(1).

3 **§122308. Grandfather Period for Licensed Massage Therapist**
4 **(LMT).** The grandfather period for the application of an LMT is for a
5 limited time of only ninety (90) calendar days from the date of enactment of
6 this Act and is offered to any individual who has been practicing massage or
7 massage therapy in Guam during five (5) consecutive years immediately
8 preceding the enactment of this Act.

9 (1) An applicant may be granted a license by the Board provided the
10 applicant:

11 (A) has submitted an application for licensure;

12 (B) ensures that official verification of the following
13 requirements has been provided to the Board:

14 (i) completion of a minimum of two hundred fifty (250)
15 hours of an in-class massage or massage therapy
16 training program which shall include the study of
17 anatomy and physiology, the theory and practice of
18 massage or massage therapy, and elective subjects
19 verified as approved or deemed equivalent by
20 NCBTMB; or

21 (ii)(a) completion of a minimum of one hundred fifty
22 (150) hours of specialized training in massage or

1 massage therapy verified as approved or deemed
2 equivalent by NCBTMB; and

3 (b) completion of a minimum of one hundred (100)
4 continuing education hours in massage or massage
5 therapy during the past five (5) consecutive years
6 immediately preceding the enactment of this Act
7 verified as approved or deemed equivalent by
8 NCBTMB;

9 (C) provides verification of employment in the practice of
10 massage or massage therapy in Guam for no less than five (5)
11 consecutive years immediately preceding the enactment of
12 this Act and as required by the Board; and

13 (D) has not been convicted in any court of competent
14 jurisdiction of:

15 (i) any felony during the past ten (10) years
16 immediately preceding the application for licensure;

17 (ii) any crime of moral turpitude regardless of the
18 degree of offense; or

19 (iii) any sex crime regardless of the degree of offense.

20 (2) At the conclusion of the ninety (90) calendar day grandfather
21 period, any individual who has not submitted a completed
22 application and satisfied all other requirements for licensure as set

1 forth in Title 10 GCA Chapter 12 shall immediately cease the
2 practice of massage or massage therapy.

3 (3) Within thirty (30) calendar days of the expiration of the ninety (90)
4 calendar day grandfather period, the Board shall review and
5 determine the applicant's eligibility for licensure.

6 (4) The fact that the Board has not reviewed or determined an
7 applicant's eligibility for licensure within the thirty (30) calendar
8 days set forth in §122308(3), shall not be deemed to be an approval
9 by the Board of the application for licensure.

10 (5) If the Board has not approved the application for licensure at the
11 expiration of the thirty (30) calendar days as set forth in
12 §122308(3), the applicant shall immediately cease the practice of
13 massage or massage therapy pending the determination by the
14 Board of the applicant's eligibility for licensure.

15 **§122309. Qualifications for Certification.** Any person
16 desiring to practice as a CMT in Guam shall apply to the Board as set forth
17 in Title 10 GCA Chapter 12.

18 (1) *A Certified Massage Therapist (CMT)* shall:

19 (A) be at least eighteen (18) years of age;

20 (B) complete a minimum of two hundred fifty (250) hours of
21 education and training from foreign or domestic massage or
22 massage therapy institutions verified as approved or deemed
23 equivalent by NCBTMB;

1 (C) arrange for and ensure that official verification of the two
2 hundred fifty (250) hours of education and training
3 equivalencies as set forth in §122309(1)(B), be sent from the
4 education and training institutions directly to the Board; and

5 (D) not have been convicted in any court of competent
6 jurisdiction of:

7 (i) any felony during the past ten (10) years
8 immediately preceding the application for certification;

9 (ii) any crime of moral turpitude regardless of the
10 degree of offense; or

11 (iii) any sex crime regardless of the degree of offense.

12 **§122310. Grandfather Period for Certified Massage Therapist**
13 **(CMT).** The grandfather period for the application of a CMT is for a
14 limited time of only ninety (90) calendar days from the date of enactment of
15 this Act and is offered to any individual who has been practicing massage or
16 massage therapy in Guam for one (1) year immediately preceding the
17 enactment of this Act.

18 (1) An applicant may be granted certification by the Board provided
19 the applicant:

20 (A) has submitted an application for certification;

21 (B) ensures that official verification of the following
22 requirements has been provided to the Board:

1 (i) completion of a minimum of one hundred fifty (150)
2 hours of education and training in massage or
3 massage therapy verified as approved or deemed
4 equivalent by NCBTMB; and

5 (ii) arrange for and ensure that official verification of the
6 one hundred fifty (150) hours of education and
7 training equivalencies as set forth in
8 §122310(1)(B)(i), be sent from the education and
9 training institutions directly to the Board; and

10 (C) provides verification of employment in the practice of
11 massage or massage therapy in Guam for no less than one (1)
12 year immediately preceding the enactment of this Act and as
13 required by the Board; and

14 (D) has not been convicted in any court of competent
15 jurisdiction of:

16 (i) any felony during the past ten (10) years immediately
17 preceding application for certification;

18 (ii) any crime of moral turpitude regardless of the degree
19 of offense; or

20 (iii) any sex crime regardless of the degree of offense.

21 (2) At the conclusion of the ninety (90) calendar day grandfather
22 period, any individual who has not submitted a completed
23 application and satisfied all other requirements for certification as

1 set forth in Title 10 GCA Chapter 12 shall immediately cease the
2 practice of massage or massage therapy.

3 (3) Within thirty (30) calendar days of the expiration of the ninety (90)
4 calendar day grandfather period, the Board shall review and
5 determine the applicant's eligibility for certification.

6 (4) The fact that the Board has not reviewed or determined an
7 applicant's eligibility for certification within the thirty (30)
8 calendar days as set forth in §122310(3), shall not be deemed to be
9 an approval by the Board of the application for certification.

10 (5) If the Board has not approved the application for certification at
11 the expiration of the thirty (30) calendar days as set forth in
12 §122310(3), the applicant shall immediately cease the practice of
13 massage or massage therapy pending the determination by the
14 Board of the applicant's eligibility for certification.

15 **§122311. Exceptions to Licensure.** This Act shall not be
16 construed to prohibit:

17 (1) the practice of massage or massage therapy by any person who is
18 authorized to practice medicine, nursing, osteopathy,
19 physiotherapy, chiropractic, podiatry, or acupuncture if such
20 practice of massage or massage therapy is within that profession's
21 scope of practice;

1 (2) the practice of massage or massage therapy given in barber shops
2 or beauty parlors by any licensed barber or beauty culturist for the
3 purposes set forth in Title 10 GCA §18110;

4
5 (3) the practice of massage or massage therapy by a person duly
6 employed as a certified trainer by a professional athletic
7 association, club, team, or physical education department of an
8 accredited university, college or high school, if such practice of
9 massage or massage therapy is within his or her certified scope of
10 practice, if such practice of massage or massage therapy is within
11 his or her traditional scope of practice.

12
13 (4) The indigenous practice of massage or massage therapy by a
14 traditional Suruhana or Suruhanu of Guam or the Northern
15 Marianas Islands.

16 **§122311.1 Exceptions; *Suruhana* or *Suruhanu*.** No license
17 shall be required for the traditional Chamorro practice of healing, as
18 provided by a Chamorro Suruhana (female) or Suruhanu (male) healer.

19 **§122312. Severability.** If any provision of this Code or its
20 application to any person or circumstance is held invalid by a court of
21 competent jurisdiction, the invalidity does not affect other provisions or
22 applications of this Code, which can be given effect without the invalid
23 provision or application, and to this end, the provisions of this Code are
24 severable.”

1 **Section 2.** The Guam Board of Allied Health Examiners *shall* within six
2 months of the implementation of this Act, and in compliance with Article 3- Rule
3 Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, develop and
4 complete the following:

5 (a) Promulgate rules and regulations relative to the practice of Massage or
6 Massage Therapy pursuant §122302 of Article 23, Title 10, Guam Code
7 Annotated;

8 (b) Develop a training curriculum for massage schools; and

9 (c) Develop an identification criterion to be utilized in the listing of Board
10 approved massage schools.

11 **Section 3. Status of licensing pending full implementation of the Act.**

12 Licenses for the practice of massage or massage therapy issued by the Guam Board
13 of Allied Health Examiners, and in effect as of the date of the implementation of
14 this Act, shall continue to remain valid and in full effect until the license would
15 otherwise expire, at which time the license shall be renewed pursuant to the
16 provisions of this Act.

17 **Section 4. Adoption of Rules and Regulations.** Notwithstanding any

18 other provision of law, rule, regulation and Executive Order, the rules and
19 regulations of the Guam Board of Allied Health Examiners for the practice of
20 *Massage and Massage Therapy*, attached hereto and incorporated as **Exhibit “A”**,
21 is hereby ***adopted*** by *I Mina'Trentai Na Liheslaturan Guåhan*, and shall be
22 codified under a new Article 16 - Practice of *Massage and Massage Therapy*, of
23 Chapter 4- Public Health and Sanitation, Division 1, Title 26, Guam
24 Administrative Rules and Regulations.

1 **Section 5. Adoption of Code of Ethics.** Notwithstanding any other provision of
2 law, rule, regulation and Executive Order, the rules and regulations of the Guam
3 Board of Allied Health Examiners for the practice of *Massage and Massage*
4 *Therapy*, attached hereto and incorporated as **Exhibit “B”**, is hereby *adopted* by *I*
5 *Mina’Trentai Na Liheslaturan Guåhan*, and shall be codified under a new Article
6 16A - **NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC**
7 **MASSAGE & BODYWORK CODE OF ETHICS** (as approved June 23, 2007),
8 of Chapter 4- Public Health and Sanitation, Division 1, Title 26, Guam
9 Administrative Rules and Regulations.

10 (a) The most recent version of the Code of Ethics shall be reviewed,
11 regularly, by the Guam Board of Allied Health Examiners and may be
12 adopted and shall be applicable relative to the rules and regulations
13 codified under Article 16 of Chapter 4, Division 1, Title 26, Guam
14 Administrative Rules and Regulations. The Board shall immediately
15 transmit any amendment to the Code of Ethics adopted pursuant to
16 this Section to *I Liheslaturan Guåhan*, via *I Maga’lahan Guåhan* for
17 consideration.

18 **Section 6. Amendment of Rules.** The Guam Board of Allied Health
19 Examiners *shall*, at a minimum of every five years, and pursuant to Article 3- Rule
20 Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
21 amend the administrative rules and regulations adopted pursuant to Section 4 of
22 this Act.

23 **Section 7. Severability.** *If* any provision of this Act or its application to
24 any person or circumstance is found to be invalid or contrary to law, such
25 invalidity shall *not* affect other provisions or applications of this Act which can be

1 given effect without the invalid provisions or application, and to this end the
2 provisions of this Act are severable.

3 **Section 8. Effective Date.** This Act shall become effective immediately
4 upon enactment.

Exhibit "A"

Title 26, Division 1, Chapter 4, Guam Administrative Rules and Regulations

"ARTICLE 16

1 **GUAM BOARD OF ALLIED HEALTH EXAMINERS**
2 **RULES AND REGULATIONS RELATIVE TO THE PRACTICE OF**
3 **MASSAGE AND MASSAGE THERAPY**

4 **SECTION I**

5 **GENERAL PROVISIONS**

6 1.1 Short Title

7 These rules and regulations shall be known and may be cited as the
8 "Massage or Massage Therapy Rules and Regulations."

9 1.2 Authority

10 10 GCA Chapter 12, Article 23, §122302 to establish rules and
11 regulations under the Practice of Massage or Massage Therapy in Guam.

12 1.3 Purpose

13 In accordance to 10 GCA Chapter 12, Article 23, §122303, the purpose is
14 "to protect the public against unlawful practices by unlicensed or
15 uncertified persons holding themselves out as persons authorized to
16 practice massage or massage therapy."

17 1.4 Definitions

18 (A) Board means the Guam Board of Allied Health Examiners
19 (GBAHE);

- 1 (B) Certified Massage Therapist (CMT) means “an individual who is
2 certified by the Board to practice massage or massage therapy and
3 who works under the supervision of a Licensed Massage Therapist.”
- 4 (C) Certification means “the procedure by which a CMT applies to the
5 Board for approval to practice massage or massage therapy.”
- 6 (D) Department of Public Health and Social Services (DPHSS) is the
7 line agency of Government of Guam established by Title 10 GCA.
- 8 (E) Division of Environmental Health (DEH), DPHSS, by authority of
9 Title 10, GCA, Chapter 21, §21102 is charged with establishing rules
10 and regulations to promote and to protect the public health,
11 employees, clients and others within massage or massage therapy
12 establishments.
- 13 (F) *Federation of State Massage Therapy Board (FSMTB)* “means the
14 organization of state regulators and educators who developed Massage
15 and Bodywork Licensing Examination (MBLEx).”
- 16 (G) Licensed Massage Therapist (LMT) means “a person who is duly
17 licensed by the Board to practice massage or massage therapy. The
18 title “Licensed Massage Therapist” shall apply only to an individual
19 not to a group, association, partnership, corporation or other legal
20 entity.”
- 21 (H) Licensure means “the procedure by which an LMT applies to the
22 Board for approval to practice massage or massage therapy.”
- 23 (I) Massage or Massage Therapy means “the systematic manual or
24 mechanical manipulations of the soft tissues of the body, including
25 hands on energy techniques and other benefits both physical and
26 mental, by such movements as rubbing, kneading, pressing, rolling,
27 slapping, and tapping, for therapeutic purposes such as promoting
28 circulation of the blood and lymph, relaxation of muscles, relief from
29 pain and restoration of metabolic balance.”

1 (J) Massage or Massage Therapy modalities or techniques may include
2 the following but not limited to other modalities approved by
3 NCBTMB or FSMTB and the Board:

- 4 (1) Active isolated stretching;
- 5 (2) Acupressure;
- 6 (3) CranioSacral (SM);
- 7 (4) Deep tissue massage;
- 8 (5) Energy work;
- 9 (6) Feldenkrais method ©;
- 10 (7) Hot stone therapy;
- 11 (8) Jin Shin Jyutsu;
- 12 (9) Lomi Lomi;
- 13 (10) Movement education;
- 14 (11) Myofascial massage;
- 15 (12) Myotherapy;
- 16 (13) On-site chair message;
- 17 (14) Oriental body work;
- 18 (15) Polarity Therapy;
- 19 (16) Pressure Point Therapy;
- 20 (17) Reflexology;
- 21 (18) Reiki ©;
- 22 (19) Rolfing ©;
- 23 (20) Russian massage;
- 24 (21) Shiatsu;
- 25 (22) Somatic Movement;
- 26 (23) Swedish massage;
- 27 (24) Tandem;
- 28 (25) Thai massage;
- 29 (26) Trager approach ©;
- 30 (27) Trigger point therapy;
- 31 (29) Tui Na;
- 32 (30) Watsu ©.

33 An LMT or a CMT advertising the above modalities or techniques must be
34 certified in the specialties he or she represents.

35 (K) Student means a bona-fide student enrolled in a massage or
36 massage therapy training school or institution, recognized by the U.S.
37 Department of Education, and engaged in massage or massage

1 therapy clinical practicum under the supervision of an Licensed
2 Massage Therapist.

3 (L) *National Certification Board for Therapeutic Massage and*
4 *Bodywork (NCBTMB)* means “a nationally accredited credentialing body
5 established to set standards for those who practice massage or massage
6 therapy.”

7 (M) Qualified Massage or Massage Therapy Establishment means a
8 massage or massage therapy establishment meeting the requirements
9 stipulated by the Division of Environmental Health of the Department of
10 Public Health and Social Services.

11 (N) Sexual activity means any direct or indirect physical contact by any
12 person or between persons which is intended to erotically stimulate either
13 person or both or which is likely to cause such stimulation and includes
14 sexual intercourse, fallatio, cunnilingus, masturbation, or anal
15 intercourse. Masturbation means the manipulation of any body tissue
16 with the intent to cause sexual arousal. Sexual activity can involve the
17 use of any device or object and is not dependent on whether penetration,
18 orgasm, or ejaculation has occurred.

19 (O) Supervision means the control, direction, and instruction of a CMT or
20 Student by an LMT on the premises of a qualified massage or massage
21 therapy establishment.

22 (P) *United States Department of Education (U.S. DOE)* means the agency
23 that recognizes regional and national accrediting organizations as reliable
24 authorities concerning the quality of education or training offered by
25 institutions of higher learning.

26 SECTION II

27 INITIAL APPLICATION AND RENEWAL FORM

28 2.1 Initial Application Form. All applicants must complete the Form
29 accordingly and submit all the required documents to the Board.

1 2.2 Renewal Form. Any LMT or CMT must complete the Renewal Form
2 accordingly and submit all the required documents for renewal to the
3 Board.

4 **SECTION III**

5 EVALUATION OF APPLICATION

6 3.1 The Board shall have thirty (30) calendar days to review and determine
7 the applicant's eligibility for licensure or certification provided the
8 applicant has furnished all the required information according to 10GCA
9 Chapter 12 Article 23, §122307 or §122309 respectively.

10 **SECTION IV**

11 EXAMINATION REQUIREMENTS FOR LICENSURE

12 4.1 The applicant for LMT must meet the qualifications set forth in Title 10
13 GCA, Chapter 12, §122307.

14 4.2 The applicant for LMT must receive a passing grade on:
15 (A) The National Certification Examination in Therapeutic Massage
16 and Bodywork (NCETMB) administered by the NCBTMB; or
17 (B) The Massage and Bodywork Licensing Exam (MBLEx)
18 administered by the FSMTB.

19 4.3 It is the applicant's responsibility to apply for either the NCETMB or the
20 MBLEx and pay the appropriate examination fees directly to the
21 examination agency as stipulated in Rule 4.2 above.

22 **SECTION V**

23 PROHIBITION OF SEXUAL ACTIVITY

24 5.1 Licensed Massage Therapist and Certified Massage Therapist are
25 prohibited by law from using the therapist-client relationship to engage

1 in "sexual activity" with a client or to make arrangements to engage in
2 such activity. The LMT-client relationship or the CMT-client
3 relationship is founded on mutual trust. Sexual misconduct in the
4 practice of massage or massage therapy means violation of the LMT or
5 CMT-client relationship through which the massage therapist uses that
6 relationship to induce or attempt to induce the client to engage, or
7 attempt to engage the client, in sexual activity outside the scope of
8 practice or the scope of generally accepted examination or treatment of
9 the client.

10 SECTION VI

11 CONTINUING EDUCATION REQUIREMENTS

12 6.1 For a LMT, effective ____, 2011, a minimum of thirty (30) continuing
13 education contact hours relevant to and focus on massage or massage
14 therapy techniques shall be:

15 (A) A minimum of fifteen (15) contact hours in courses of which:

16 (i) 15 contact hours may be obtained by correspondence or on-
17 line home-study courses, tape and/or video cassette courses,
18 provided the course requires passing a test to be graded by
19 the provider and the passing score is verified by the provider
20 of the course, such as a certificate; or

21 (ii) 15 contact hours may be obtained by local courses, workshop
22 or seminars with proof of attendance and completion issued
23 by a Board approved educator, presenter or recognized
24 institution; and

25 (B) A minimum of ten (10) contact hours of hands-on instruction or
26 training, with proof of attendance and completion issued by a Board
27 approved educator, presenter or recognized institution; and

28 (C) A minimum of three (3) hours of independent study in the
29 following:

30 (i) NCBTMB Code of Ethics;

31 (ii) GCA Chapter 12 Title 10, Article 8 to 23;

- 1 (iii) GBAHE Rules and Regulations Relative to the Practice of
- 2 Massage and Massage Therapy; and
- 3 (iv) DPHSS, Division of Environmental Health *Rules and*
- 4 *Regulations*
- 5 *Relative to the Operations of Massage or Massage Therapy*
- 6 *Establishment.*

7 The LMT shall sign the Acknowledgement Form, provided by the
8 Board, that he or she has read the documents and fully understands
9 them as stated in Section VI 6.1(C).

10 (D) A minimum of two (2) hours of HIV/AIDS course with proof of
11 attendance and completion provided by the provider or sponsor.

12 6.2 For a CMT, effective _____, 2011, a minimum of fifteen (15) continuing
13 education contact hours relevant to and focus on massage or massage
14 therapy techniques shall be:

- 15 (A) A minimum of five (5) contact hours in courses of which:
 - 16 (i) Five (5) contact hours may be obtained by correspondence
 - 17 or on-line home-study courses, tape and/or video cassette
 - 18 courses, provided the course requires passing a test to be
 - 19 graded by the provider and the passing score is verified by
 - 20 the provider of the course, such as a certificate; or
 - 21 (ii) Five (5) contact hours may be obtained by local courses,
 - 22 workshop or seminars with proof of attendance and
 - 23 completion issued by a Board approved educator, presenter
 - 24 or recognized institution;

25 (B) A minimum of five (5) contact hours of hands-on instruction or
26 training, with proof of attendance and completion issued by a Board
27 approved educator, presenter or recognized institution.

28 (C) A minimum of three (3) hours of independent study in the
29 following:

- 30 (v) NCBTMB Code of Ethics;
- 31 (vi) 10 GCA Chapter 12 Articles 8 to 23;
- 32 (vii) GBAHE Rules and Regulations Relative to the Practice of
- 33 Massage and Massage therapy; and

1 **SECTION VIII**

2 **DISPLAY OF LICENSES OR CERTIFICATES**

3 8.1 All LMT or CMT shall conspicuously display a *current* license or
4 certificate issued by the Board or photocopy thereon at each location
5 where he or she practices.

6 **SECTION IX**

7 **ETHICS**

8 9.1 All LMT and CMT shall abide to the Code of Ethics established by
9 NCBTMB, as initially adopted and codified as Article 16A of Chapter 4,
10 Division 1, Title 26, Guam Administrative Rules and Regulations.

11 **SECTION X**

12 **FEEES**

13	10.1	Initial Application Fee for LMT or CMT	\$ 125.00
14	10.2	Application Fee by Endorsement	\$ 125.00
15	10.3	Application Fee by Examination	\$ 125.00
16	10.4	Renewal Fee	\$ 80.00
17	10.5	Late Renewal Fee	\$ 100.00
18	10.6	License or Certificate Verification	\$ 25.00
19	10.7	Re-issuance of Initial Certificate for LMT or CMT	\$ 75.00
20	10.8	Re-issuance of License or Certificate Card	\$ 10.00
21	10.9	Reactivation Fee	\$ 80.00

1	10.10	Copy of the Allied Health Practice Act	\$ 5.00
2	10.11	Copy of Rules and Regulations	\$ 10.00
3	10.12	Photocopy (first five (5) pages)	\$ 4.00
4	10.13	Photocopy (each additional page)	\$.50

5 The above nonrefundable fee schedule and other fees determined by the
6 Board shall be subject to amendments through the Administrative
7 Adjudication Law, Rule Making Procedures, pursuant to 5 GCA, Article 3,
8 Chapter 9.

9 **SECTION XI**

10 **BIENNIAL LICENSE RENEWAL AND REACTIVATION OF INACTIVE STATUS**

11 11.1 Biennial Period. Biennial period shall mean January 1st of each odd-
12 numbered year and ending December 31st of each even-numbered year.

13 11.2 Biennial Renewal of LMT and CMT.

- 14 (A) All LMT or CMT shall renew their licenses or certificates on or
15 before December 31st, of each biennial year according to the fee
16 schedule as stipulated in Section X above.
- 17 (B) No license or certificate shall be renewed unless the LMT or CMT
18 submits confirmation that he or she has completed the required
19 continuing education as stipulated in Section VI above.

20 11.3 Reactivation of an Inactive License or Certificate.

21 An inactive license or certificate shall be reactivated upon
22 demonstration that the LMT or CMT has paid the reactivation fee as
23 stipulated in Rule 10.4 above, and has complied with the following
24 requirements:

- 25 (A) As a condition to reactivation of an inactive LMT or inactive CMT,
26 he or she must submit proof of having completed the appropriate

1 continuing education requirements as stipulated in Rule Section V
2 above.

3 (B) However, any LMT or CMT whose has been inactive for more than
4 two (2) consecutive biennial period for renewal cycles and who
5 has not practiced for two (2) out of the previous four (4) years in
6 any U.S. jurisdiction shall be required to appear before the Board
7 and establish the ability to practice with the care and skill
8 sufficient to protect the health, safety, and welfare of the public.
9 At the time of such appearance, the person must;

10 (i) Show compliance with 10.3(A), above;

11 (ii) Account for any activities related to the practice of massage
12 or massage therapy in this or any other U.S. jurisdiction
13 during the period that the LMT or CMT was inactive and
14 establish an absence of malpractice or disciplinary action
15 pending in any jurisdiction.

16 SECTION XII

17 PLACE OF PRACTICE

18 12.1 Each LMT or CMT shall provide to the Board a current mailing address
19 and a physical address of the place of practice, if not the same. It is the
20 responsibility of the LMT and CMT to provide the Board any change of
21 mailing address and change of the physical address of the place of
22 practice, if not the same.

23 SECTION XIII

24 MASSAGE OR MASSAGE THERAPY ESTABLISHMENT 25

26 13.1 Each LMT or CMT who works in a massage or massage therapy
27 establishment shall follow the Rules and Regulations relative to the
28 operations of a Massage or Massage Therapy Establishment stipulated
29 by DPHSS Division of Environmental Health.

30 SECTION XIV

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ADVERTISEMENT

14.1 It shall be unlawful to advertise the practice of massage or massage therapy using the term 'massage', 'massage therapy' or 'therapeutic massage' or any other term that implies a massage technique or modalities as stipulated above in Rule 1.4(J), in any public or private publication or communication which shall include any signage on any building that advertises the practice of massage or massage therapy by any individuals who are unlicensed or uncertified.

14.2 Any person who holds:

(A) A license to practice massage or massage therapy may use the title "Licensed Massage Therapist" or "LMT." He or she shall include the number of the license, issued by the Board, in any advertisement of massage or massage therapy services appearing in business cards, any newspaper, airwave transmission, telephone directory, or other advertising medium.

(B) A certificate to practice massage or massage therapy may use the title "Certified Massage Therapist" or "CMT." A CMT is prohibited from advertising as an independent CMT.

14.3 Massage or Massage Therapy advertisement must also follow 10 GCA Chapter 12, Article 8.

SECTION XV

DISCIPLINARY ACTION

15.1 The following acts constitute grounds for denial of a license or certificate or disciplinary action:

(A) Attempting to procure a license or certificate to practice massage or massage therapy by bribery or fraudulent misrepresentation.

(B) Having a license or certificate to practice massage or massage therapy revoked, suspended, or otherwise acted against, including

1 the denial of licensure or certificate, by the licensing authority of
2 another state, territory, or country.

3 (C) Being convicted or found guilty, regardless of adjudication, of a
4 crime in any jurisdiction which directly relates to the practice of
5 massage or massage therapy or to the ability to practice massage
6 or massage therapy. Any plea of nolo contendere shall be
7 considered a conviction for purposes of this chapter.

8 (D) False, deceptive, or misleading advertising.

9 (E) Aiding, assisting, procuring or advising any unlicensed person to
10 practice massage or massage therapy contrary to the provisions
11 as set forth by

12 (i) Rules and Regulations Relative to the Practice of Massage or
13 Massage Therapy.

14 (ii) Rules and regulations Relative to the Practice of Massage or
15 Massage Therapy Establishments as set forth by the
16 Division of Environment Health, Department of Public
17 Health and Social Services.

18 (F) Making deceptive, untrue, or fraudulent representation in the
19 practice of massage or massage therapy.

20 (G) Being unable to practice massage or massage therapy with
21 reasonable skill and safety by reason of illness or use of alcohol,
22 drugs, narcotic, chemicals, or any other type of material or as a
23 result of any mental or physical condition. The Board has, upon
24 probable cause, the authority to compel an LMT or CMT to submit
25 to a mental or physical examination by physicians or clinical
26 psychologists designated by the Board, under the expense of the
27 LMT or CMT. Failure of an LMT or CMT to submit to such
28 examination when so directed, unless the failure was due to
29 admission of the allegations against him or her, consequent upon
30 which a default and final order may be entered without the taking
31 of testimony or presentation of evidence. An LMT or CMT affected
32 under this paragraph shall at reasonable intervals be afforded an
33 opportunity to demonstrate that he or she can resume the
34 competent practice of massage or massage therapy with
35 reasonable skill and safety to clients.

36 (H) Gross or repeated malpractice or the failure to practice massage
37 or massage therapy with that level of care, skill, and treatment
38 which is recognized by a reasonably prudent LMT or CMT as
39 being acceptable under similar conditions and circumstances.

- 1 (I) Practicing or offering to practice beyond the scope permitted by
2 law or accepting and performing professional responsibilities
3 which the LMT or CMT knows or has reason to know that he or
4 she is not competent to perform.
- 5 (J) Delegating professional responsibilities to a person when the LMT
6 or CMT knows or has reason to know that such person is not
7 qualified by training, experience, or licensure or certification to
8 perform.
- 9 (K) Violating a lawful order of the Board previously entered in a
10 disciplinary hearing, or failing to comply with a lawfully issued
11 order by the Board.
- 12 (L) Refusing to permit the Division of Environmental Health, DPHSS
13 to inspect the business premises of the LMT or CMT during
14 regular business hours.
- 15 (M) Failing to keep the equipment and premises of the massage or
16 massage therapy establishment in a clean and sanitary condition.
- 17 (N) Practicing massage or massage therapy at a site, location, or place
18 which is not duly licensed as a massage establishment, except that
19 a LMT or CMT, as provided by rules of the Board, may provide
20 massage or massage therapy services at a clinic, at the residence
21 of the client, at the office of the client, at a sports event, at a
22 convention, or at a trade show.

23 **SECTION XVI**

24 **VIOLATION, SUSPENSION, REVOCATION & OTHER PENALITIES**

- 25 16.1 It is unlawful for any person to engage or attempt to engage in the
26 occupation or practice of massage or massage therapy for compensation
27 without a current license or certification to practice massage or
28 massage therapy.
- 29 16.2 A violation of subsection 15.1 shall be subject to the criminal penalties
30 set forth in Title 10, Guam Code Annotated, Chapter 12, and any other
31 applicable laws.

1 16.3 The Board shall have the authority to deny, suspend, or revoke a license
2 or certification or impose other civil penalties set forth in 10 GCA,
3 Chapter 12, and any other applicable laws.”

Exhibit “B”

Title 26, Division 1, Chapter 4, Guam Administrative Rules and Regulations

“Article 16A

NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE & BODYWORK CODE OF ETHICS

(as approved June 23, 2007)

- I. Have a sincere commitment to provide the highest quality of care to those who seek their professional services.
- II. Represent their qualifications honestly, including education and professional affiliations, and provide only those services that they are qualified to perform.
- III. Accurately inform clients, other health care practitioners and the public of the scope and limitations of their discipline.
- IV. Acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professional.
- V. Provide treatment only where there is reasonable expectation that it will be advantageous to the client.
- VI. Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training.

1 **VII.** Conduct their business and professional activities with honesty and integrity
2 and respect the inherent worth of all persons.

3 **VIII.** Refuse to unjustly discriminate against clients or health professionals.

4 **XI.** Safeguard the confidentiality of all client information, unless disclosure is
5 requested by the client in writing, is medically necessary, is required by law or
6 necessary for the protection of the public.

7 **X.** Request the client's rights to treatment with informed and voluntary consent.
8 The certified practitioner will obtain and record the informed consent of the client,
9 or client's advocate, before providing treatment. This consent may be written or
10 oral.

11 **XI.** Respect the client's right to refuse, modify, or terminate treatment regardless
12 of prior consent given.

13 **XII.** Provide draping and treatment in a way that ensures the safety, comfort and
14 privacy of the client.

15 **XIII.** Exercise the right to refuse to treat any person or part of the body for just
16 and reasonable cause.

1 **XIV.** Refrain, under all circumstances, from initiating or engaging in any sexual
2 conduct, sexual activities, or sexualizing behavior involving client, even if the
3 client attempts to sexualize the relationship.

4 **XV.** Avoid any interest, activity or influence which might be in conflict with the
5 practitioner's obligations to act in the best interests of the client or the professional.

6 **XVI.** Respect the client's boundaries with regard to privacy, disclosure, exposure,
7 emotional expression, beliefs, and the client's reasonable expectations of
8 professional behavior. Practitioners will respect the client's autonomy.

9 **XVII.** Refuse any gifts or benefits that are intended to influence a referral,
10 decision or treatment, or that are purely for personal gain and not for the good of
11 the client.

12 **XVIII.** Follow all policies, procedures, guidelines, regulations, codes, and
13 requirements promulgated by the *National Certification Board for Therapeutic*
14 *Massage and Bodywork.*"