

# Virginia Board of Nursing Massage Therapy Advisory Board

Wednesday, November 9, 2022 at 10:00 A.M.  
Department of Health Professions  
9960 Mayland Drive, Suite 201  
Henrico, VA 23233  
Board Room 3

## Agenda

- I. **Call to Order:** Shawnté Peterson, L.M.T., Chair
- II. **Establishment of a Quorum**
- III. **Announcements**
  - New Advisory Board Citizen Member – P. Lisa Speller, R.N., B.S.N., M.S.
- IV. **Old Business**
  - Review and approval of minutes from December 1, 2021 meeting
- V. **Public Comment/Open Forum**
- VI. **New Business**
  - Election of Officers – Ms. Peterson
  - December 2022 / January – June 2023 Informal Conference / 2023 Formal Hearing Schedule – Ms. Douglas
  - Revision of Sanction Reference Points for Licensed Massage Therapists – Ms. Bargdill
  - Massage Therapy Compact Development – Ms. Douglas
  - Environmental Scan – All Advisory Board Members share current trends and issues in the massage therapy education and practice environment
- VII. **Reports**
  - L.M.T. Discipline Case Report – Ms. Hanchey
  - L.M.T. Licensure Report – Ms. Hanchey
  - FSMTB 2022 Member Board Executive Summit Report, May 5-6, 2022 (Clearwater, FL) – Ms. Bargdill
  - FSMTB 2022 Annual Report, October 18-20, 2022 (Charlotte, NC) – Ms. Hanchey
- VIII. **Information Only (No Action Required)**
  - Toolkit for Identifying Human Trafficking and Fraud in Higher Education
  - Executive Order Number Seven (2022) Establishing the Commission on Human Trafficking Prevention and Survivor Support
  - FSMTB In Touch Newsletters
    - Interstate Massage Compact, Annual Meeting Information, and more! (August 2022)
    - FSMTB Initiates Litigation to Protect the Integrity of the MBLEx (February 2022)

*Mission Statement: Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.*

**IX. Discussion for Future Meetings**

**X. Adjournment of Meeting**

**VIRGINIA BOARD OF NURSING  
MASSAGE THERAPY ADVISORY BOARD  
MINUTES**

**Wednesday, December 1, 2021**

- TIME AND PLACE:** The meeting of the of the Massage Therapy Advisory Board convened at 2:00 p.m. in Training Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia..
- PRESIDING:** Jermaine Mincey, Citizen Member, Chair
- MEMBERS PRESENT:** Dawn Hogue, L.M.T.  
Erin Claire Osborn Osiol, M.S.W., L.M.T.  
María Mercedes Olivieri, L.M.T.
- MEMBERS ABSENT:** Shawnté Peterson, L.M.T., Vice Chair – **joined at 2:10 P.M.**
- STAFF PARTICIPATING:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., F.R.E., Executive Director **left at 3:50 pm**  
Christina Bargdill, B.S.N., R.N., M.H.S., Deputy Executive Director  
Cathy Hanchey, Senior Licensing/Discipline Specialist
- OTHERS PARTICIPATING:** Kim Small, Visual Research – **joined at 2:30 p.m.**
- PUBLIC PARTICIPATING:** Becky Bowers-Lanier, American Massage Therapy Association-VA Chapter
- ESTABLISHMENT OF A QUORUM:** Mr. Mincey welcomed attendees and asked Ms. Hanchey to take a roll call of Massage Therapy Advisory Board Members present. With five (5) members present, a quorum was established.
- Staff and public attendees were identified.
- ANNOUNCEMENTS:** Mr. Mincey welcomed Christina Bargdill to her position as Deputy Executive Director for the Medication Aide, Nurse Aide and Massage Therapy program position.
- OLD BUSINESS:** An overview was done of the minutes from the last Massage Therapy Advisory Board meeting held on November 2, 2020. Ms. Hogue moved that the minutes from the November 2, 2020, meeting be approved. The motion was seconded by Ms. Olivieri and carried unanimously.
- PUBLIC COMMENT:** Mr. Mincey opened the meeting for public comment. No one appeared for public comment.

## NEW BUSINESS:

Ms. Bargdill reviewed the Formal Hearing schedule for January – December 2022, and covered dates for January 2022 Formal Hearings, and Informal Conferences for December 2021, as well as January – June 2022. Ms. Bargdill advised an email would be forthcoming for an additional Formal Hearing date.

Ms. Douglas initiated discussion concerning the emergence of online programs during COVID-19. Concerns during the discussion were standards for online programs including: adequate training for faculty; content area and amount of time spent in online learning vs. in-person learning; mode of delivery (live virtual); and, apprenticeship as a pathway to licensure.

Mr. Mincey announced that according to the By-laws, elections for both Chair and Vice-Chair must be held. Mr. Mincey is currently serving as Chair, and Ms. Peterson is serving as Vice-Chair.

Mr. Mincey moved to nominate Ms. Peterson as Chair, and the motion was seconded by Ms. Hogue. With no other nominees for Chair, Ms. Peterson was elected Chair by acclamation.

Mr. Mincey moved to nominate Ms. Hogue for Vice-Chair, and the motion was seconded by Ms. Osiol. With no other nominees for Vice-Chair, Ms. Hogue was elected Vice-Chair by acclamation.

Kim Small, Visual Research, presented information regarding the Sanction Reference Point (SRP) worksheet development specifically for Licensed Massage Therapists (LMTs) for use under Guidance Document 90-7. After discussion, it was the Advisory Board's recommendation that the Board of Nursing add a Case Type for "Standard of Care." The Advisory Board recommended that the category of Stand of Care should be ranked above that of Unlicensed Activity and that the scoring of points should be determined by Visual Research staff in consideration of the existing offense scores. Additionally, the Advisory Board recommended that a category for "Patient Physical Injury" for 10 points be included under Offense and Respondent Score. These recommendations should be incorporated into the SRP worksheet for LMTs and presented to the full Board of Nursing for approval.

Comments related to current trends and issues in the massage therapy education and practice environments included discussions surrounding online education delivery, human trafficking and education, COVID-19 vaccination status of educators/students, increased number of available positions, and a request for an update on recommendations of COVID-19 practices for LMTs as health care practitioners, including a determination of where LMTs fit into the recommendations.

## REPORTS:

Ms. Hogue provided an update on the Massage Therapy Compact Development as a member of the Technical Assistance Group. There are issues related to navigating between the ease for legitimate LMTs and provide protection from human trafficking. Ms. Hogue outlined the steps in development of the Compact, with a goal of providing recommendations to the drafting team by the summer of 2022 and seven states participating in the Compact to make it active.

Ms. Hanchey noted that case types are comparable to those from 2020, noting that the drop in Fraud, Non-Patient Care cases are related to fewer MBLEx invalidations by the Federation of State Massage Therapy Boards. Statistical reports provided are incorporated and attached to these minutes.

Ms. Hanchey presented information concerning LMTs. There is a significant decrease in new licenses issued, and this decrease is attributed to the impact of COVID-19 restrictions. The decrease in active LMTs may also be attributed to the impact of COVID-19. Statistical reports provided are incorporated and attached to these minutes.

**INFORMATION ONLY:** Ms. Hanchey provided information concerning the outcome of the virtual elections for the 2021 FSMTB Annual Meeting, as well as additional information provided by FSMTB in the areas of massage therapy programs, fraud in education, and the Compact.

**DISCUSSION OF FUTURE MEETINGS:** Board staff will coordinate with the Massage Therapy Advisory Board on Massage Therapy members on availability for a meeting in late-October/early-November 2022.

**ADJOURNMENT:** The meeting was adjourned at 4:28 p.m.

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Christina Bargdill, B.S.N., M.H.S., R.N.  
Deputy Executive Director

**LMT ADVISORY BOARD MEMBERS**  
**NEEDS FOR IFC & FH COVERAGE 2023**

**Informal conferences (IFCs) Dates for January – June, 2023**

*IFC dates that we will need an LMT advisory board member to be on the committee:*

- *February 6, 2023 – Dawn Hogue, LMT*
- *April 17, 2022 – Erin Osiol, MSW, LMT*
- *June 15, 2022 – Shawnté Peterson, LMT*

*It could be no cases, 1 or 2 cases, or a full day of cases.*

*Normally it is only for morning cases (4 or 5 cases), so you would only be here 9:00 am until 12:00 noon, or 1:00 pm.*

*Occasionally, we will have LMT cases scheduled all day, but it is rare.*

*No matter how many cases, you could still get a free lunch!*

**Formal Hearings (FHs) Dates for 2023**

*FH dates that we may need an LMT advisory board member on the panel:*

- *January 23-26, 2023*
- *March 20-23, 2023*
- *May 22-25, 2023*
- *July 17-20, 2023*
- *September 11-14, 2023*
- *November 13-16, 2023*

To be scheduled for a formal hearing, it would be (1) Summary Suspension; (2) certain reinstatements; (3) appealing an IFC decision; (4) not signing a consent order that is offered at an IFC. If #2, #3, or #4, it could not be the same LMT person that was on the committee for the IFC as you would be conflicted with the case. So, please look at dates and consider when you may or may not be available, but it will depend on who and why the FH is scheduled, and we will have to ask on a case-by-case basis.

# **Sanctioning Reference Points Instruction Manual**

**Board of Nursing**

Adopted March 2006  
Revised March 2011  
Revised June 2013  
Revised January 2017  
Revised July 2022  
Guidance Document 90-7

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# Foreword

Roughly two decades ago, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members..." The purposes and goals of the study were consistent with state statutes which specify that the Board of Health Professions (BHP) periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

For the Board of Nursing, VisualResearch, Inc. (VRI) collected and analyzed over 100 factors on recently sanctioned cases. The factors measured case seriousness, respondent characteristics, and prior disciplinary history. Those factors identified as consistently associated with sanctioning provided the foundation for the creation of Sanctioning Reference Points (SRPs). Using both the data and collective input from the Board of Nursing and staff, VRI analysts developed a usable set of sanction worksheets to implement the reference system.

Over the years, the SRP system has been modified to continually reflect current board practice. To make modifications, VRI relies on completed SRP worksheets, coversheets and hard copy files. The Department of Health Professions established an agency directive (76-3.2) to ensure that all respondents were scored on the worksheet in all eligible cases. These completed worksheets are the foundation for modifications made to the SRP manual. The boards receive periodic feedback on SRP agreement rates and reasons for departure from worksheet recommendations.

This most recent BON SRP manual contains updated worksheets for all professions regulated by the Board of Nursing. In addition, Licensed Massage Therapists now have a worksheet separate from other BON professions. Consequently, this new SRP manual contains various changes to the Board of Nursing's Sanctioning Reference Points system.



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# General Information

## Overview

The Virginia Board of Health Professions has spent the last 18 years studying sanctioning in disciplinary cases. This ongoing effort examines all 13 health regulatory boards. Focusing on the Board of Nursing (BON), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and revised worksheets with offense and respondent factors that are scored in order to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Nursing. Moreover, the worksheet and sanctioning thresholds have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The current SRP system is comprised of a series of worksheets which score several offense and respondent factors identified using statistical analysis and built upon the Department's effort to maintain standards of practice over time.

The original BON SRP Manual was developed for the Board of Nursing by studying and evaluating respondents as two separate groups, Nurses (RN and LPN) and Certified Nurse Aides (CNA). This manual reflects the study and evaluation of four separate professions within the BON: Nurses, CNAs, Registered Medication Aides (RMA) and Licensed Massage Therapists (LMT). Several reasons for this delineation include:

- The Board of Nursing has additional adverse “Findings” available to them for sanctioning a CNA, including Findings of Abuse, Neglect, or Misappropriation of Property. When such a “Finding” is made by the Board, federal laws and regulations state that a CNA can no longer work in a federally funded long-term care facility. The functional effect is similar to losing one’s certificate, since these facilities are the primary employers of CNAs.
- It became clear, both through the interview process and through data gathering, that the profession of Massage Therapist should be on a separate worksheet from nursing professions due to differences in the functional skills required, types of cases heard, and criteria considered when making sanctioning decisions.
- RMAs continue to have a separate worksheet due to the specific case types that result from the unique RMA scope of practice.

Because of the differences in case types, variability in sanctioning, and case volume, the SRP worksheets contained in this manual are unique to each profession analyzed. Worksheets make use of different factors for scoring resulting in variability in points allocated for similar factors.

Worksheet structure across professions is consistent. Nurse, CNA, RMA and LMT worksheets all score a single case type as well as offense and respondent factors with sanctioning thresholds found at the bottom of each worksheet. Nursing SRPs are comprised of a series of three broader, case-specific worksheets where the other professions make use of a single SRP worksheet. Greater detail on use of each profession’s worksheet is included herein.

Additionally, each profession has a separate coversheet available to record the case type, recommended sanction, actual sanction, and reasons for departure (if applicable). The completed coversheets and worksheets will be evaluated as part of an on-going effort to monitor and refine the SRPs.

These instructions and the use of the SRP system fall within current DHP and BON policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board of Nursing and are specified within

existing Virginia statute. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or regulations supersede the worksheet recommendation.

## **Background**

When the Board of Nursing adopted the first SRP manual in 2006, it was understood that a sanctioning system of this type was not intended to be a static document. The culture of the professions regulated by the BON changes over time as do the case types, factors related to sanctioning, and the sanctioning decisions themselves. The BON recognizes that ongoing monitoring and updating of the SRP worksheets and manual will be an inherent part of the process of consistency and fairness in sanctioning its licensees with the goal of protecting the public.

This current evaluation of the practices of the BON relied heavily on the coversheets and worksheets from recent cases that ended in violation and a great deal of Board member and staff input. The analysis resulted in changes to the manual for the BON.

## **Goals**

In 2001, the Board of Health Professions and the Board of Nursing cited the following purposes and goals for establishing SRPs:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the BON and those involved in proceedings
- Neutralizing sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Reducing the influence of undesirable factors e.g., overall Board makeup, race, ethnic origin, etc.
- Predicting future caseloads and need for probation services and terms

## **Methodology**

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments in order to achieve a more balanced outcome. Each adopted SRP manual has been based on a descriptive approach with a limited number of normative adjustments.

## **Qualitative Analysis**

Researchers conducted in-depth interviews with BON members, LMT committee members, and Board staff. Researchers also had informal conversations with representatives from the Attorney General's office and the Executive Director of the Board of Health Professions. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further guide the study's analysis. Additionally, interviews helped ensure the factors that board members consider when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors, in addition to newly recognized factors, were examined for their continued relevance and sanctioning influence.

## **Quantitative Analysis**

Over 100 different factors were collected on each case to describe the case attributes Board members identified as potentially impacting sanctioning decisions. Researchers used data available through DHP's case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, Board notices, Board orders, and all other documentation made available to Board members when deciding a case sanction.

Researchers used 202 Nurse, 78 CNA, 39 RMA and 42 LMT cases previously adjudicated by Board members to create a comprehensive database to analyze the offense and respondent factors which were identified by interviewees as potentially influencing sanctioning decisions. That database was then merged with DHP's data system L2K, making more variables eligible for analysis. The resulting database was analyzed to determine any changes in Board sanctioning that may have had an effect on the worksheet recommendations. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the significant factors along with their relative weights were derived. Those factors and weights were formulated into sanctioning worksheets, which became the SRPs.

Offense factors such as patient harm, patient vulnerability and case severity (priority level) were analyzed, as well as respondent factors such as existence of substance abuse, impairment at the time of offense, initiation of self-corrective action, and prior history of the respondent. Although, a myriad of factors can help explain sanction variation, only those "legal" factors the Board felt should consistently play a role in sanctioning decisions continued to be included on the worksheets. By using this method, the goal was to achieve more neutrality in sanctioning by ensuring the Board considers the same set of "legal" factors in disciplinary cases that warrant sanctioning decisions.

## **Characteristics of the SRP System**

### **Sanctioning Ranges**

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Board with a sanctioning model that encompasses roughly 80% of historical practice. Recognizing that aggravating and mitigating factors play a legitimate role in sanctioning decisions, approximately 20% of past cases receive sanctions either higher or lower than what the reference points indicate. The wide sanctioning ranges allow the Board to customize a particular sanction within the broader SRP recommended range.

### **Discretionary Nature**

The SRP system should be viewed strictly as a decision-making tool giving the Board of Nursing complete discretion at any time to choose a sanction outside the SRP range. The importance of appropriate coversheet and worksheet completion on every case eligible for scoring cannot be overstated. This includes cases resolved at an informal conference by special conference committees and agency subordinates, and by prehearing consent order offers delegated to and authorized by Board staff. The coversheet and worksheets will be used only after it is determined that a violation has occurred.

### **Sanctioning Thresholds**

The Board indicated early in the SRP study that sanctioning is not only influenced by circumstances directly associated with the case, but also by the respondent's past history. The empirical analysis supports the notion that both offense and respondent factors impact sanctioning decisions. Subsequently, the SRPs combine case type, offense and respondent factor scores to arrive at a "Total Worksheet Score" which is then used to determine the statistically driven sanctioning recommendation. For example, a respondent before the Board for a standard of care case may also receive points for having a history of disciplinary violations.

# General Instructions for Using the SRP System

## Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the BON to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the Board and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: [www.dhp.state.va.us](http://www.dhp.state.va.us) (paper copy also available on request).

## Worksheets

The worksheets along with scoring instructions are included in subsequent sections of this manual. Detailed instructions are provided for each factor on a worksheet and should be referenced to ensure accurate scoring. The scoring weights assigned to a factor on the worksheet cannot be adjusted and can only be applied as 'yes or no' with all or none of the points applied. In instances when a scoring factor is difficult to interpret, the Board has final authority in how a case is scored.

## Worksheets Not Used in Certain Cases

The SRPs are not applied in any of the following circumstances:

- Action by Another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Nursing, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Nursing usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply to cases previously heard and adjudicated by another Board.
- Compliance/Reinstatement – The SRPs should be applied to new cases only. This included vacated stays of suspension due to HPMP noncompliance.
- Confidential Consent Agreements (CCA) – SRPs will not be used in cases settled by CCA.
- Mandatory Suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the license must be suspended. The sanction is defined by law and is therefore excluded from the Sanctioning Reference Point system.
- Licensed nurse practitioners (LNPs) – SRPs will not be used in LNP cases.

# **Sanctioning Reference Points for Licensed Massage Therapists**

## Using the SRP System for LMTs

### Case Types Covered by the SRP System

A single sanctioning reference points worksheet is used to score all Licensed Massage Therapists (LMT) disciplinary cases (unlike Nursing cases, which are scored on one of three different worksheets). When one respondent's multiple cases have been combined for disposition by the Board into one order, enter the point value for the case type group which appears highest on the following table. One coversheet and worksheet comprise the entire event. For instance, if a respondent is before the Board for both a Standard of Care and an Inability to Safely Practice violation, the Case Type selected would be Inability to Safely Practice. This table is used for LMTs only.

### Case Types Covered on the LMT Worksheet

Case Types	
Abuse/Inappropriate Relationship	Any sexual assault/abuse, mistreatment of a patient, or physical abuse  Verbal Abuse Speaking to a patient in a rude manner, name calling  Dual, sexual or other boundary issue. Includes inappropriate touching and/or communication, written or oral
Inability to Safely Practice	Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.  Prescription forgery, stealing drugs from patients, or personal use  Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).
Fraud/Continuing Education	Improper patient billing or falsification of initial/renewal licensure or employment documents.  Failure to obtain or document CE requirements.
Standard of Care	Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues. This includes, but is not limited to: failure to consider medical history, inappropriate technique, lack of informed consent, and practicing beyond the scope
Unlicensed Activity	Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.

### Determining a Specific Sanction

The sanctioning reference points worksheet for LMTs allows a respondent to be assessed in two ways: by the nature of the case (e.g., inability to safely practice vs. standard of care) and by the number of offense and respondent factors that are present. The Board scores only one case type from the case type list (the most serious that occurred) and as many offense and respondent factors that are founded during case deliberations.

The LMT worksheet has three thresholds with increasing point values and correspondingly increasing sanction severities. The table below shows threshold scores leading to the available sanctions. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

## Sanctioning Thresholds

Sanctioning Thresholds for LMTs	
0-50	No Sanction Reprimand Monetary Penalty
51-85	Probation Stayed Suspension Terms <ul style="list-style-type: none"> <li>▪ continuing education</li> <li>▪ HPMP (enter/continue)</li> <li>▪ quarterly self reports</li> <li>▪ quarterly job performance evaluations</li> <li>▪ License shall be visible online with wording “Probation with Terms”</li> <li>▪ inform Board of beginning or changing employment (10 days)</li> <li>▪ provide current/future treating practitioners with copy of order</li> <li>▪ written notification to employer/employees/associates</li> <li>▪ impairment/incapacitation – evaluation</li> <li>▪ impairment – supervised unannounced drug screens</li> <li>▪ impairment/incapacitation – therapy with progress reports</li> <li>▪ practice restriction – setting</li> <li>▪ Shall be active in AA/NA</li> </ul>
86 and up	Refer to Formal Hearing Revocation Suspension Surrender

## Completing the Coversheet

The coversheet is completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for system monitoring and evaluation.

If the Board feels the sanction recommendation is not appropriate, the Board may depart either high or low when handing down a sanction. If the Board disagrees with the sanction recommendation and imposes a sanction greater or less than the recommended sanction, “Yes” should be checked and a short explanation should be recorded on the coversheet. The explanation could identify the factors and the reasons for departure. This process will ensure the worksheet is revised appropriately to reflect current Board practice. If a particular reason is continually cited, the Board can examine the issue more closely to determine if the worksheet should be modified to better reflect Board practice.

Aggravating and mitigating circumstances that may influence Board decisions can include, but should not be limited to, such things as:

- Severity of the incident
- Age of prior record
- Dishonesty/Obstruction
- Motivation
- Remorse
- Cause for the action
- Multiple offenses/Isolated incident

A space is provided on the coversheet to record the reason(s) for departure. Due to the uniqueness of each case, the reason(s) for departure may be wide-ranging.



# SRP Coversheet for LMTs

Case Number(s): 

--	--	--	--	--	--

--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--

Respondent Name: \_\_\_\_\_

Certificate or Registration Number: \_\_\_\_\_

Case Resolution Method:   
 IFC-Agency Subordinate   
 IFC-Special Conference Committee   
 Pre-Hearing Consent Order

Case Type:   
 Abuse/Inappropriate Relationship   
 Inability to Safely Practice   
 Fraud/Continuing Education   
 Standard of Care   
 Unlicensed Activity

Sanction Threshold Level:   
 0-50   
 51-85   
 86 and up

Imposed Sanction(s):   
 No Sanction   
 Terms   
 Courses \_\_\_\_\_   
 Take No Action   
 HPMP entry/compliance  Other: \_\_\_\_\_   
 Probation with Terms: \_\_\_\_\_   
 Reprimand   
 Monetary Penalty for \$ \_\_\_\_\_   
 Suspension (*check all that apply*)   
 not < 1 year   
 not < 2 years   
 Stay contingent upon \_\_\_\_\_   
 Offer CO   
 Surrender   
 Revocation   
 Recommend Formal   
 Other Sanction: \_\_\_\_\_

Was imposed sanction a departure from the recommendation?  No  Yes, give reason below

Reasons for Departure from Sanction Grid Result: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Worksheet Preparer's Name: \_\_\_\_\_ Date Worksheet Completed: \_\_\_\_\_

Board Member or Agency Subordinate Name: \_\_\_\_\_

# SRP Worksheet for LMTs

Case Type Score (score only one)	Points	Score
a. Abuse/Inappropriate Relationship	50	_____
b. Inability to Safely Practice	35	_____
c. Fraud/Continuing Education	25	_____
d. Standard of Care	15	_____
e. Unlicensed Activity	10	_____
Case Type Score		<input style="width: 60px; height: 20px;" type="text"/>

Offense and Respondent Score (score all that apply)	Points	Score
a. Concurrent criminal conviction	40	_____
b. Past difficulties (substances, mental/physical)	30	_____
c. Case involved a mental health admission	25	_____
d. Concurrent action by employer	20	_____
e. Act of commission	15	_____
f. Respondent failed to initiate corrective action	15	_____
g. License ever taken away by any state	10	_____
h. Financial or material gain	10	_____
i. Any prior Virginia Board violations	10	_____
j. Patient physical injury	10	_____
Offense and Respondent Score		<input style="width: 60px; height: 20px;" type="text"/>

**Total Worksheet Score**  
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-50	No Sanction Reprimand Monetary Penalty
51-85	Probation Stayed Suspension Terms
86 and up	Refer to Formal Hearing Revocation Suspension Surrender

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.

# SRP Worksheet Instructions for LMTs

## Case Type Score

**Step 1:** (score only one)

Enter the point value that corresponds to the case type. If a case has multiple aspects, enter the point value for the one most serious case type that is highest on the list. (See page 29 for an expanded list.)

- |                                     |    |
|-------------------------------------|----|
| a. Abuse/Inappropriate Relationship | 50 |
| b. Inability to Safely Practice     | 35 |
| c. Fraud/Continuing Education       | 25 |
| d. Standard of Care                 | 15 |
| e. Unlicensed Activity              | 10 |

**Step 2:** Enter Case Type Score

## Offense/Respondent Score

**Step 3:** (score all that apply)

- Enter "40" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
- Enter "30" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.
- Enter "25" if the case involved a mental health admission. The admission can be either voluntary or a temporary detention order (TDO).
- Enter "20" if the respondent received any action from his/her employer in response to the current incident. This may include, but is not limited to: suspension, termination, or disciplinary counseling notice.
- Enter "15" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter "15" if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- Enter "10" if the respondent's LMT license was previously revoked, suspended, or summarily suspended in any state or if any license type was previously revoked by the Virginia Department of Health Professions.
- Enter "10" if the respondent's motivation for the violation was financial or material gain.
- Enter "10" if the respondent has any prior orders issued by the Virginia Board of Nursing finding them in violation.
- Enter "10" if a patient was intentionally or unintentionally injured. Injury includes, but is not limited to, any physical injury that requires first aid, subsequent treatment, and emergency care.

**Step 4:** Combine all for Total Offense and Respondent Score

**Step 5:** Combine Case Type Score and Offense and Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendations located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 70 is recommended for "Probation/Stayed Suspension/Terms."

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction, and the reasons for departure if applicable.

1 **INTERSTATE MASSAGE THERAPY COMPACT**

2 **ARTICLE 1- PURPOSE**

3 The purpose of this Compact is to reduce the burdens on State governments and to facilitate  
4 the interstate practice and regulation of Massage Therapy with the goal of improving public  
5 access to, and the safety of, Massage Therapy Services. Through this Compact, the Member  
6 States seek to establish a regulatory framework which provides for a new multistate licensing  
7 program. Through this additional licensing pathway, the Member States seek to provide  
8 increased value and mobility to licensed massage therapists in the Member States, while  
9 ensuring the provision of safe, effective, and reliable services to the public.

10 This Compact is designed to achieve the following objectives, and the Member States hereby  
11 ratify the same intentions by subscribing hereto:

- 12 A. Increase public access to Massage Therapy Services by providing for a multistate  
13 licensing pathway;
- 14 B. Enhance the Member States’ ability to protect the public’s health and safety, and  
15 prevent criminal activity within the profession;
- 16 C. Encourage the cooperation of Member States in regulating the multistate Practice of  
17 Massage Therapy;
- 18 D. Support spouses of relocating military members;
- 19 E. Facilitate and enhance the exchange of licensure, investigative, and disciplinary  
20 information between the Member States;
- 21 F. Create an Interstate Commission that will exist to effectuate the Compact;
- 22 G. Provide for meaningful dispute resolution while allowing a Member State to hold a  
23 Licensee accountable, even where that Licensee holds a Multistate License;
- 24 H. Create a streamlined pathway for Licensees to practice in Member States, thus  
25 increasing the mobility of duly licensed massage therapists; and
- 26 I. To serve the needs of licensed massage therapists and the public receiving their  
27 services; however
- 28 J. Nothing in this Compact is intended to prevent a State from enforcing its own laws.

29  
30  
31  
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38  
39 **ARTICLE 2- DEFINITIONS**

40 As used in this Compact, except as otherwise provided and subject to clarification by the  
41 Rules of the Commission, the following definitions shall govern the terms herein:

- 42 A. “Active Duty Military” - any individual in full-time duty status in the active uniformed  
43 service of the United States including members of the National Guard and Reserve.  
44
- 45 B. “Adverse Action” - any administrative, civil, equitable, or criminal action permitted by a  
46 Member State’s laws which is imposed by a Licensing Authority or other regulatory body  
47 against a Licensee, including actions against an individual’s licensure privilege such as  
48 revocation, suspension, probation, monitoring of the Licensee, limitation of the Licensee’s  
49 practice, or any other Encumbrance on licensure affecting an individual’s ability to practice  
50 Massage Therapy, including the issuance of a cease and desist order.  
51
- 52 C. “Alternative Program” - a non-disciplinary monitoring or prosecutorial diversion program  
53 approved by a Member State’s Licensing Authority.  
54
- 55 D. “Background Check” - the included but not limited to applicant’s criminal history record  
56 information, as further defined in 28 C.F.R. § 20.3(d), as amended.. from the Federal Bureau  
57 of Investigation and the agency responsible for retaining State criminal records in the  
58 applicant’s Home State.  
59
- 60 E. “Commission” - the government agency whose membership consists of all States that have  
61 enacted this Compact, which is known as the Interstate Massage Therapy Compact  
62 Commission, as defined in Article VIII, and which shall operate as an instrumentality of the  
63 Member States.  
64
- 65 F. “Current Significant Investigative Information” - Investigative Information that a Licensing  
66 Authority, after an inquiry or investigation that complies with a Member State’s due process  
67 requirements, has reason to believe is not groundless and, if proved true, would indicate a  
68 violation of that State’s laws regarding the Practice of Massage Therapy.  
69
- 70 G. “Data System” -a repository of information about Licensees, which may include but is not  
71 limited to license status, Investigative Information, and Adverse Actions.  
72
- 73 H. “Disqualifying Event” - any event which shall disqualify an individual from holding a  
74 Multistate License under this Compact, which the Commission may by Rule specify.  
75
- 76 I. “Encumbrance” - a revocation or suspension of, or any limitation or condition on, the full  
77 and unrestricted Practice of Massage Therapy by a Licensing Authority.  
78
- 79 J. “Executive Committee” - a group of directors elected or appointed to act on behalf of, and  
80 within the powers granted to them by, the Commission.  
81
- 82 K. “Home State” - means the Member State which is a Licensee’s primary state of residence.  
83
- 84 L. “Investigative Information” - information, records, and/or documents received or generated  
85 by a Licensing Authority pursuant to an investigation or other inquiry.  
86

- 87 M. “Licensing Authority” - a State’s regulatory body responsible for issuing Massage Therapy  
88 licenses or otherwise overseeing the Practice of Massage Therapy in that State.  
89
- 90 N. “Licensee” - an individual who currently holds an authorization from a Member State to fully  
91 practice Massage Therapy, whose license is not a student, provisional, temporary, inactive, or  
92 other similar status.  
93
- 94 O. “Massage Therapy”, “Massage Therapy Services”, and the “Practice of Massage Therapy” -  
95 the care and services provided by a Licensee as set forth in the Member State’s statutes and  
96 regulations in the State where the services are being provided.  
97
- 98 P. “Member State” - any State that has adopted this Compact.  
99
- 100 Q. “Multistate License” - a license to practice Massage Therapy in all Member States issued by  
101 the Commission, acting on behalf of the Member States, pursuant to this Compact, and shall  
102 be subject to the enforcement jurisdiction of the Licensing Authority in a Licensee’s Home  
103 State.  
104
- 105 R. “Remote State” - any Member State, other than the Licensee’s Home State.  
106
- 107 S. “Rule” - any opinion or regulation promulgated by the Commission under this Compact,  
108 which shall have the force of law.  
109
- 110 T. “Single-State License” - a Massage Therapy license issued by a Member State that authorizes  
111 practice only within the issuing State and does not include any authorization to practice  
112 Massage Therapy outside of the issuing State.  
113
- 114 U. “State” - a state, territory, possession of the United States, or the District of Columbia.  
115
- 116 V. “State Practice Laws” - a Member State’s laws, rules, and regulations that govern the  
117 Practice of Massage Therapy, define the scope of such practice, and create the methods and  
118 grounds for imposing discipline.  
119
- 120 W. “Unencumbered License” - means a current, valid authorization issued by a Member State’s  
121 Licensing Authority allowing an individual to fully practice Massage Therapy. An  
122 Unencumbered License is not a restricted, student, provisional, temporary, or inactive  
123 practice authorization.

### 124 **ARTICLE 3- MEMBER STATE REQUIREMENTS**

- 125 A. To be eligible to join this Compact, and to maintain eligibility as a Member State, a State  
126 must currently:  
127
- 128 1. License and regulate the Practice of Massage Therapy;  
129
  - 130 2. Have a mechanism or entity in place to receive and investigate complaints about  
131 Licensees practicing in that State;

- 132  
133 3. Require that Licensees within the State pass a national licensure examination prior to  
134 being licensed to provide Massage Therapy Services to the public in that State;  
135  
136 4. Require that Licensees satisfy educational requirements prior to being licensed to provide  
137 Massage Therapy Services to the public in that State;  
138  
139 5. Implement procedures for considering the Background Check of applicants for licensure,  
140 and for the reporting of any Disqualifying Events;  
141  
142 6. Participate in the Data System, including through the use of unique identifying numbers  
143 as described herein;  
144  
145 7. Notify the Commission and other Member States, in compliance with the terms of the  
146 Compact and Rules of the Commission, of any disciplinary action taken by the State  
147 against a Licensee in that State, or of the availability of Investigative Information  
148 regarding a Licensee practicing in that State;  
149  
150 8. Delegate authority to the Commission on behalf of the Member State to determine  
151 eligibility for a Multistate License under the Compact;  
152  
153 9. Comply with such Rules as may be enacted by the Commission to administer the  
154 Compact;  
155  
156 10. Accept Licensees from other Member States as established herein;  
157  
158 B. Individuals not residing in a Member State shall continue to be able to apply for a Member  
159 State's Single-State License as provided under the laws of each Member State. However, the  
160 Single-State License granted to those individuals shall not be recognized as granting a  
161 Multistate License for Massage Therapy in any other Member State;  
162  
163 C. Nothing in this Compact shall affect the requirements established by a Member State for the  
164 issuance of a Single-State License; and  
165  
166 D. A Multistate License issued to a Licensee by the Commission shall be recognized by each  
167 Member State as authorizing a Licensee to practice Massage Therapy in each Member State.  
168

169 **ARTICLE 4- MULTISTATE LICENSE REQUIREMENTS**

- 170 A. Upon the receipt of an application for a Multistate License, according to the Rules of the  
171 Commission, the Commission shall ascertain whether the applicant meets the requirements  
172 for a Multistate License under this Compact using any and all information available to the  
173 Commission, including, but not limited to, information uploaded to the Data System by the  
174 applicant's Home State.  
175

- 176 B. If an applicant meets the requirements for a Multistate License under this Compact and any  
177 Rules of the Commission, the Commission, acting on behalf of the Member States, shall  
178 grant a Multistate License to that applicant, and inform all Member States of the grant of said  
179 Multistate License.  
180
- 181 C. A Multistate License to practice Massage Therapy issued by the Commission, acting on  
182 behalf of the Member States, shall be recognized by each Member State as authorizing a  
183 Licensee to practice as though that Licensee holds a license to do so in each Member State,  
184 subject to the restrictions herein.  
185
- 186 D. A Multistate License granted pursuant to this Compact may be effective for a definite period  
187 of time, which the Commission may by Rule define.  
188
- 189 E. To qualify for a Multistate License under this Compact, and to maintain eligibility for such a  
190 license, an applicant must:  
191
- 192 1. Hold an active, unencumbered license to practice Massage Therapy in the applicant's  
193 Home State;  
194
  - 195 2. Have an active and unique identifying number, as determined by the Rules of the  
196 Commission;  
197
  - 198 3. Have completed at least six hundred and twenty-five (625) clock hours of Massage  
199 Therapy education, as approved under the laws of the applicant's Home State, or that  
200 Home State's Licensing Authority, or which the Commission may otherwise approve by  
201 Rule. Licensees holding an active and unencumbered license may be exempted from this  
202 requirement, as provided for by the Rules of the Commission;  
203
  - 204 4. Have passed a national licensing examination developed and administered by a national  
205 association of Massage Therapy regulatory boards or as otherwise approved by  
206 Commission Rule;  
207
  - 208 5. Have not been convicted or found guilty, or have entered into an agreed disposition, of a  
209 felony offense under applicable State or federal criminal law, within five (5) years prior  
210 to the date of their application, where such a time period shall not include any time  
211 served for the offense, and provided that the applicant has completed any and all  
212 requirements arising as a result of any such offense;  
213
  - 214 6. Have not been convicted or found guilty, or have entered into an agreed disposition, of a  
215 misdemeanor offense related to the Practice of Massage Therapy under applicable State  
216 or federal criminal law, within two (2) years prior to the date of their application where  
217 such a time period shall not include any time served for the offense, and provided that the  
218 applicant has completed any and all requirements arising as a result of any such offense;  
219



- 220 7. Have not previously held a Massage Therapy license which was revoked by, or  
221 surrendered to, an applicable Licensing Authority;  
222
- 223 8. Have no history of any Adverse Action taken by applicant's Home State Licensing  
224 Authority within two (2) years prior to the date of their application;  
225
- 226 9. Have not been convicted or found guilty, or have entered into an agreed disposition, of  
227 any offense, whether a misdemeanor or a felony, under state or federal law, at any time,  
228 relating to any of the following:  
229 a. Kidnapping;  
230 b. Human trafficking;  
231 c. Human smuggling;  
232 d. Sexual battery; or  
233 e. Any other category of offense which the Commission may by Rule designate.  
234
- 235 10. Pay all required fees related to the application and verification or certification process,  
236 and any other fees which the Commission may by Rule require; and  
237
- 238 11. Comply with any and all other requirements which the Commission may by Rule  
239 provide.  
240
- 241 F. A Licensee practicing in a Member State must comply with State Practice Laws of the State  
242 in which Massage Therapy Services are provided, and all other applicable laws of that State.  
243
- 244 G. The Practice of Massage Therapy under a Multistate License granted pursuant to this  
245 Compact will subject the Licensee to the jurisdiction of the Licensing Authority, the courts,  
246 and the laws of the Member State in which the Massage Therapy Services are provided.  
247

248 **ARTICLE 5- PARALLEL AUTHORITY OF INTERSTATE MASSAGE THERAPY**  
249 **COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES**

- 250 A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,  
251 restrict, or in any way reduce the ability of a Member State to enact and enforce laws,  
252 regulations, or other rules related to the Practice of Massage Therapy in that State, where  
253 those laws, regulations, or other rules are not inconsistent with the provisions of this  
254 Compact.  
255
- 256 B. Insofar as practical, a Member State's Licensing Authority shall cooperate with the  
257 Commission and with each entity exercising independent regulatory authority over the  
258 Practice of Massage Therapy according to the provisions of this Compact.  
259
- 260 C. Licensees practicing in a Member State under a Multistate License shall be subject to both  
261 the Rules and requirements of the Commission and those of the Member State in which  
262 Massage Therapy Services are being provided.  
263

264 D. An Adverse Action by the Commission on behalf of a Member State against a Licensee,  
265 including the denial, suspension, surrender in lieu of discipline, or revocation of a Multistate  
266 License, shall in no way limit a Member State’s authority to grant a Single-State License to  
267 that Licensee or otherwise regulate such licenses.

268

269 **ARTICLE 6- ADVERSE ACTIONS**

270 A. A Home State shall have exclusive power to impose Adverse Action against a Single-State  
271 License issued by the Home State. A Multistate License shall not allow a Licensee to offer  
272 Massage Therapy Services in a State where they are otherwise prohibited from doing so by a  
273 Member State’s Licensing Authority.

274

275 B. A Home State may take Adverse Action on a Single-State License based on the Investigative  
276 Information of a Remote State, so long as the Home State follows its own procedures for  
277 imposing Adverse Action.

278

279 C. A Home State shall retain authority to complete any pending investigations of a Licensee  
280 who changes their Home State during the course of such an investigation. The Licensing  
281 Authority shall also be empowered to report the results of such an investigation to the  
282 Commission through the Data System as described herein.

283

284 D. Any Member State may investigate actual or alleged violations of the State Practice Laws in  
285 any other Member State for a massage therapist who holds a Multistate License.

286

287 E. A Remote State shall have the authority to:

288

289 1. Take Adverse Actions against a Licensee’s Multistate License;

290

291 2. Issue cease and desist orders or impose an Encumbrance on a Licensee’s Multistate  
292 License.

293

294 3. Issue subpoenas for both hearings and investigations that require the attendance and  
295 testimony of witnesses, as well as the production of evidence. Subpoenas issued by a  
296 Licensing Authority in a Member State for the attendance and testimony of witnesses or  
297 the production of evidence from another Member State shall be enforced in the latter  
298 State by any court of competent jurisdiction, according to the practice and procedure of  
299 that court applicable to subpoenas issued in proceedings before it. The issuing Licensing  
300 Authority shall pay any witness fees, travel expenses, mileage, and other fees required by  
301 the service statutes of the State in which the witnesses or evidence are located.

302

303 4. Obtain and submit, for each Licensee and applicant, fingerprint or other biometric-based  
304 information to the Federal Bureau of Investigation for Background Checks; receive the  
305 results of the Federal Bureau of Investigation record search on Background Checks; and  
306 use the results of such a Background Check in making licensure decisions.

- 307  
308 5. If otherwise permitted by State law, recover from the affected Licensee the costs of  
309 investigations and disposition of cases resulting from any Adverse Action taken against  
310 that Licensee.  
311  
312 6. Take Adverse Action based on the factual findings of another Member State, provided  
313 that the Licensing Authority follows its own procedures for taking such Adverse Action  
314
- 315 F. Commission Authority Following Adverse Action  
316 1. In the event that a Licensee's Single-State License to Practice Massage Therapy is  
317 suspended or revoked by the Home State's Licensing Authority, the Commission, acting  
318 on behalf of the Member States, shall suspend or revoke that Licensee's Multistate  
319 License, as appropriate, until such time as said Licensing Authority should reinstate the  
320 Licensee's Single-State License.  
321  
322 2. If Adverse Action is taken by a Remote State against a Licensee's Multistate License to  
323 practice in that State, the Commission, as authorized by the Member States, may suspend,  
324 revoke, or otherwise restrict that Licensee's Multistate License based on the Remote  
325 State's Adverse Action, and no further justification or proof shall be required.  
326  
327 3. Such an action from the Commission shall be reflected in a disciplinary order, which  
328 shall include a statement that the Licensee's Multistate License is suspended in all  
329 Member States during the pendency of the order.  
330
- 331 G. Nothing in this Compact shall override a Member State's authority to accept a Licensee's  
332 participation in an Alternative Program in lieu of Adverse Action. A Licensee's Multistate  
333 License shall be suspended for the duration of the Licensee's participation in any Alternative  
334 Program.  
335
- 336 H. Joint Investigations  
337  
338 1. In addition to the authority granted to a Member State by its respective State Practice  
339 Laws other applicable State law, a Member State may participate with other Member  
340 States in joint investigations of Licensees.  
341  
342 2. Member States shall share any investigative, litigation, or compliance materials in  
343 furtherance of any joint or individual investigation initiated under the Compact.  
344

345 **ARTICLE 7- ACTIVE DUTY MILITARY AND THEIR SPOUSES**

346 Active Duty Military personnel, or their spouses, shall designate a Home State where the  
347 individual has a current license to practice Massage Therapy in good standing. The individual  
348 may retain their Home State designation during any period of service when that individual is on  
349 active duty assignment.

350 **ARTICLE 8- ESTABLISHMENT OF THE INTERSTATE MASSAGE THERAPY**  
351 **COMPACT COMMISSION**

352 A. The Compact Member States hereby create and establish a joint government agency whose  
353 membership consists of all member states that have enacted the compact known as the  
354 Interstate Massage Therapy Compact Commission. The Commission is an instrumentality of  
355 the Compact States acting jointly and not an instrumentality of any one state.

356 B. Membership, Voting, and Meetings

357 1. Each Member State shall have and be limited to one (1) delegate selected by that Member  
358 State's Licensing Authority.

359 2. The delegate shall be the primary officer of the Licensing Authority or their designee.

360 3. The Commission may recommend removal or suspension any delegate from office.

361 4. A Member State's State Licensing Authority shall fill any vacancy of its delegate  
362 occurring on the Commission within 60 days of the vacancy.

363 5. Each delegate shall be entitled to one vote on all matters before the Commission  
364 requiring a vote by Commission delegates.

365 6. A delegate shall vote in person or by such other means as provided in the bylaws. The  
366 bylaws may provide for delegates to meet by telecommunication, videoconference, or  
367 other means of communication.

368 7. The Commission shall meet at least once during each calendar year. Additional meetings  
369 may be held as set forth in the bylaws. The Commission may meet by  
370 telecommunication, video conference or other similar electronic means.

371 C. The Commission shall have the following powers:

372 1. Establish the fiscal year of the Commission;

373 2. Establish code of conduct and conflict of interest policies;

374 3. Establish and amend Rules and bylaws;

375 4. Maintain its financial records in accordance with the bylaws;

376 5. Meet and take such actions as are consistent with the provisions of this Compact, the  
377 Commission's Rules, and the bylaws;

378 6. Initiate and conclude legal proceedings or actions in the name of the Commission,  
379 provided that the standing of any State Licensing Board to sue or be sued under  
380 applicable law shall not be affected;

381 7. Purchase and maintain insurance and bonds;

- 382 8. Borrow, accept, or contract for services of personnel, including, but not limited to,  
383 employees of a Member State;
- 384 9. Conduct an annual financial review
- 385 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
386 individuals appropriate authority to carry out the purposes of the Compact, and establish  
387 the Commission's personnel policies and programs relating to conflicts of interest,  
388 qualifications of personnel, and other related personnel matters;
- 389 11. Assess and collect fees;
- 390 12. Accept any and all appropriate gifts, donations, grants of money, other sources of  
391 revenue, equipment, supplies, materials, and services, and to receive, utilize, and dispose  
392 of the same; provided that at all times the Commission shall avoid any appearance of  
393 impropriety and/or conflict of interest;
- 394 13. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed,  
395 or any undivided interest therein;
- 396 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
397 property real, personal, or mixed;
- 398 15. Establish a budget and make expenditures;
- 399 16. Borrow money;
- 400 17. Appoint committees, including standing committees, composed of members, State  
401 regulators, State legislators or their representatives, and consumer representatives, and  
402 such other interested persons as may be designated in this Compact and the bylaws;
- 403 18. Provide and receive information from, and cooperate with, law enforcement agencies;
- 404 19. Establish and elect an Executive Committee, including a chair and a vice chair;
- 405 20. Determine whether a State's adopted language is materially different from the model  
406 compact language such that the State would not qualify for participation in the Compact;  
407 and
- 408 21. Perform such other functions as may be necessary or appropriate to achieve the purposes  
409 of this Compact.

410 D. The Executive Committee

- 411 1. The Executive Committee shall have the power to act on behalf of the Commission  
412 according to the terms of this Compact. The powers, duties, and responsibilities of the  
413 Executive Committee shall include:

- 414 a. Oversee the day-to-day activities of the administration of the compact including  
415 enforcement and compliance with the provisions of the compact, its Rules and  
416 bylaws, and other such duties as deemed necessary;
- 417 b. Recommend to the Commission changes to the Rules or bylaws, changes to this  
418 Compact legislation, fees charged to Compact Member States, fees charged to  
419 licensees, and other fees;
- 420 c. Ensure Compact administration services are appropriately provided, including by  
421 contract;
- 422 d. Prepare and recommend the budget;
- 423 e. Maintain financial records on behalf of the Commission;
- 424 f. Monitor Compact compliance of Member States and provide compliance reports to  
425 the Commission;
- 426 g. Establish additional committees as necessary;
- 427 h. Exercise the powers and duties of the Commission during the interim between  
428 Commission meetings, except for adopting or amending Rules, adopting or amending  
429 bylaws, and exercising any other powers and duties expressly reserved to the  
430 Commission by Rule or bylaw; and
- 431 i. Other duties as provided in the Rules or bylaws of the Commission.
- 432 2. The Executive Committee shall be composed of seven members:
- 433 a. The chair and vice chair of the Commission shall be voting members of the Executive  
434 Committee; and
- 435 b. The Commission shall elect seven voting members from the current membership of  
436 the Commission.
- 437 c. The Commission may elect ex-officio, nonvoting members as necessary. The  
438 Commission's bylaws shall identify qualifying organizations and the manner of  
439 appointment.
- 440 3. The Commission may remove any member of the Executive Committee as provided in  
441 the Commission's bylaws.
- 442 4. The Executive Committee shall meet at least annually.
- 443 a. Executive Committee meetings shall be open to the public, except that the Executive  
444 Committee may meet in a closed, non-public meeting as provided in subsection F.2  
445 below.

- 446 b. The Executive Committee shall give ten days' notice of its meetings, posted on its  
447 website and as determined to provide notice to persons with an interest in the business  
448 of the Commission.
- 449 c. The Executive Committee may hold a special meeting in accordance with subsection  
450 F.1.b. below.
- 451 E. The Commission shall adopt and provide to the Member States an annual report.
- 452 F. Meetings of the Commission
- 453 1. All meetings shall be open to the public, except that the Commission may meet in a  
454 closed, non-public meeting as provided in subsection F.2 below.
- 455 a. Public notice for all meetings of the full Commission of meetings shall be given in the  
456 same manner as required under the Rulemaking provisions in Section 11, except that  
457 the Commission may hold a special meeting as provided in subsection F.1.b below.
- 458 b. The Commission may hold a special meeting when it must meet to conduct  
459 emergency business by giving [24, 48, or other] hours' notice to all commissioners, on  
460 the Commission's website, and other means as provided in the Commission's rules.  
461 The Commission's legal counsel shall certify that the Commission's need to meet  
462 qualifies as an emergency.
- 463 2. The Commission or the Executive Committee or other committees of the Commission  
464 may convene in a closed, non-public meeting for the Commission or Executive  
465 Committee or other committees of the Commission to receive legal advice or to discuss:
- 466 a. Non-compliance of a Member State with its obligations under the Compact;  
467 b. The employment, compensation, discipline or other matters, practices or procedures  
468 related to specific employees;  
469 c. Current or threatened discipline of a Licensee by the Commission or by a Member  
470 State's Licensing Board;  
471 d. Current, threatened, or reasonably anticipated litigation;  
472 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
473 estate;  
474 f. Accusing any person of a crime or formally censuring any person;  
475 g. Trade secrets or commercial or financial information that is privileged or  
476 confidential;  
477 h. Information of a personal nature where disclosure would constitute a clearly

- 478 unwarranted invasion of personal privacy;
- 479 i. Investigative records compiled for law enforcement purposes;
- 480 j. Information related to any investigative reports prepared by or on behalf of or for use  
481 of the Commission or other committee charged with responsibility of investigation or  
482 determination of compliance issues pursuant to the Compact;
- 483 k. Matters specifically exempted from disclosure by federal or Member State law; or
- 484 l. Other matters as promulgated by the Commission by Rule.
- 485 3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the  
486 meeting will be closed and reference each relevant exempting provision, and such  
487 reference shall be recorded in the minutes.
- 488 4. The Commission shall keep minutes that fully and clearly describe all matters discussed  
489 in a meeting and shall provide a full and accurate summary of actions taken, and the  
490 reasons therefore, including a description of the views expressed. All documents  
491 considered in connection with an action shall be identified in such minutes. All minutes  
492 and documents of a closed meeting shall remain under seal, subject to release only by a  
493 majority vote of the Commission or order of a court of competent jurisdiction.

494 G. Financing of the Commission

- 495 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its  
496 establishment, organization, and ongoing activities.
- 497 2. The Commission may accept any and all appropriate revenue sources as provided in  
498 C(12).
- 499 3. The Commission may levy on and collect an annual assessment from each Member State  
500 and impose fees on licensees of Member States to whom it grants a Multistate License to  
501 cover the cost of the operations and activities of the Commission and its staff, which must  
502 be in a total amount sufficient to cover its annual budget as approved each year for which  
503 revenue is not provided by other sources. The aggregate annual assessment amount for  
504 Member States shall be allocated based upon a formula that the Commission shall  
505 promulgate by Rule.
- 506 4. The Commission shall not incur obligations of any kind prior to securing the funds  
507 adequate to meet the same; nor shall the Commission pledge the credit of any of the  
508 Member States, except by and with the authority of the Member State.
- 509 5. The Commission shall keep accurate accounts of all receipts and disbursements. The  
510 receipts and disbursements of the Commission shall be subject to the financial review and



511 accounting procedures established under its bylaws. However, all receipts and  
512 disbursements of funds handled by the Commission shall be subject to an annual  
513 financial review by a certified or licensed public accountant, and the report of the  
514 financial review shall be included in and become part of the annual report of the  
515 Commission.

516 H. Qualified Immunity, Defense, and Indemnification

517 1. The members, officers, executive director, employees and representatives of the  
518 Commission shall be immune from suit and liability, both personally and in their official  
519 capacity, for any claim for damage to or loss of property or personal injury or other civil  
520 liability caused by or arising out of any actual or alleged act, error, or omission that  
521 occurred, or that the person against whom the claim is made had a reasonable basis for  
522 believing occurred within the scope of Commission employment, duties or  
523 responsibilities; provided that nothing in this paragraph shall be construed to protect any  
524 such person from suit or liability for any damage, loss, injury, or liability caused by the  
525 intentional or willful or wanton misconduct of that person. The procurement of insurance  
526 of any type by the Commission shall not in any way compromise or limit the immunity  
527 granted hereunder.

528 2. The Commission shall defend any member, officer, executive director, employee, and  
529 representative of the Commission in any civil action seeking to impose liability arising  
530 out of any actual or alleged act, error, or omission that occurred within the scope of  
531 Commission employment, duties, or responsibilities, or as determined by the commission  
532 that the person against whom the claim is made had a reasonable basis for believing  
533 occurred within the scope of Commission employment, duties, or responsibilities;  
534 provided that nothing herein shall be construed to prohibit that person from retaining  
535 their own counsel at their own expense; and provided further, that the actual or alleged  
536 act, error, or omission did not result from that person's intentional or willful or wanton  
537 misconduct.

538 3. The Commission shall indemnify and hold harmless any member, officer, executive  
539 director, employee, and representative of the Commission for the amount of any  
540 settlement or judgment obtained against that person arising out of any actual or alleged  
541 act, error, or omission that occurred within the scope of Commission employment, duties,  
542 or responsibilities, or that such person had a reasonable basis for believing occurred  
543 within the scope of Commission employment, duties, or responsibilities, provided that the  
544 actual or alleged act, error, or omission did not result from the intentional or willful or  
545 wanton misconduct of that person.

- 546 4. Nothing herein shall be construed as a limitation on the liability of any licensee for  
547 professional malpractice or misconduct, which shall be governed solely by any other  
548 applicable state laws.
- 549 5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member  
550 State's state action immunity or state action affirmative defense with respect to antitrust  
551 claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or  
552 anticompetitive law or regulation.
- 553 6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the  
554 Member States or by the Commission.  
555

556 **ARTICLE 9- DATA SYSTEM**

- 557 A. The Commission shall provide for the development, maintenance, operation, and utilization  
558 of a coordinated database and reporting system containing licensure, Adverse Action, and the  
559 presence of Current Significant Investigative Information on all licensed individuals in  
560 Member States.
- 561 B. Notwithstanding any other provision of State law to the contrary, a Member State shall  
562 submit a uniform data set to the Data System on all individuals to whom this Compact is  
563 applicable as required by the Rules of the Commission, including:
- 564 1. Identifying information;
- 565 2. Licensure data;
- 566 3. Adverse Actions against a Single-State License or Multistate License [and information  
567 related thereto];
- 568 4. Non-confidential information related to Alternative Program participation, the beginning  
569 and ending dates of such participation, and other information related to such participation  
570 not made confidential under Member State law;
- 571 5. Any denial of application for licensure, and the reason(s) for such denial;
- 572 6. The presence of Current Significant Investigative Information; and
- 573 7. Other information that may facilitate the administration of this Compact or the protection  
574 of the public, as determined by the Rules of the Commission.
- 575 C. The information contained in the data system shall be considered authentic and not hearsay in  
576 any civil action involving the Commission when accompanied by a certification by the  
577 Commission's data system manager concerning the authenticity of the data.

- 578 D. Current Significant Investigative Information pertaining to a Licensee in any Member State  
579 will only be available to other Member States.
- 580 E. It is the responsibility of the Member States to report any Adverse Action against a Licensee.  
581 Adverse Action information pertaining to a Licensee in any Member State will be available  
582 to any other Member State.
- 583 F. Member States contributing information to the Data System may designate information that  
584 may not be shared with the public without the express permission of the contributing State.
- 585 G. Any information submitted to the Data System that is subsequently expunged pursuant to  
586 federal law or the laws of the Member State contributing the information shall be removed  
587 from the Data System.  
588

589 **ARTICLE 10- RULEMAKING**

- 590 A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently  
591 implement and administer the purposes and provisions of the Compact. In addition to any  
592 other applicable standard of review, in the event a court of competent jurisdiction holds that  
593 the Commission exercised its Rulemaking authority in a manner that is beyond the scope of  
594 the purposes of the Compact, or the powers granted hereunder, then such an action by the  
595 Commission shall be invalid and have no force or effect.
- 596 B. The Rules of the Commission shall have the force of law in each Member State, provided  
597 however that where the Rules of the Commission conflict with the State Practice Laws of a  
598 Member State as held by a court of competent jurisdiction, the Rules of the Commission shall  
599 be ineffective in that State to the extent of the conflict.
- 600 C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in  
601 this Section and the Rules adopted thereunder. Rules and amendments shall become binding  
602 as of the date specified in each Rule or amendment.
- 603 D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by  
604 enactment of a statute or resolution in the same manner used to adopt the Compact within  
605 four (4) years of the date of adoption of the Rule, then such Rule shall have no further force  
606 and effect in any Member State.
- 607 E. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the  
608 Commission.
- 609 F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow  
610 persons to give oral testimony and submit written data, facts, opinions, and arguments.

- 611 G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in  
612 advance of the meeting at which the Commission will hold a public hearing on the proposed  
613 Rule, the Commission shall provide a Notice of Proposed Rulemaking:
- 614 1. On the website of the Commission or other publicly accessible platform;
  - 615 2. To persons who have requested notice of the Commission's notices of proposed  
616 rulemaking, and
  - 617 3. In such other way(s) as the Commission may by Rule specify.
- 618 H. The Notice of Proposed Rulemaking shall include:
- 619 1. The time, date, and location of the public hearing at which the Commission will hear  
620 testimony on the proposed Rule and, if different, the time, date, and location of the  
621 meeting where the Commission will consider and vote on the proposed Rule;
  - 622 2. If the hearing is held via telecommunication, video conference, or other electronic means,  
623 the Commission shall include the mechanism for access to the hearing in the Notice of  
624 Proposed Rulemaking;
  - 625 3. The text of the proposed Rule and the reason therefor;
  - 626 4. A request for comments on the proposed Rule from any interested person; and
  - 627 5. The manner in which interested persons may submit written comments.
- 628 I. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written  
629 data, facts, opinions, and arguments, which shall be made available to the public.  
630
- 631 J. The Commission may grant an opportunity for a public hearing before it adopts a Rule or  
632 amendment if a hearing is requested by:
- 633 1. At least twenty-five (25) persons;
  - 634 2. A State or federal governmental subdivision or agency; or  
635
  - 636 3. An association or organization having at least twenty-five (25) members.  
637
- 638
- 639
- 640 K. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the  
641 place, time, and date of the scheduled public hearing. If the hearing is held via electronic  
642 means, the Commission shall publish the mechanism for access to the electronic hearing.  
643
- 644 1. All persons wishing to be heard at the hearing shall notify the executive director of the  
645 Commission or other designated member in writing of their desire to appear and testify at  
646 the hearing not less than five (5) business days before the scheduled date of the hearing.  
647

- 648 2. Hearings shall be conducted in a manner providing each person who wishes to comment  
649 a fair and reasonable opportunity to commend orally or in writing.  
650
- 651 3. All hearings will be recorded. A copy of the recording will be made available on request.  
652
- 653 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.  
654 Rules may be grouped for the convenience of the Commission at hearings required by  
655 this section.  
656
- 657 L. Following the scheduled hearing date, or by the close of business on the scheduled hearing  
658 date if the hearing was not held, the Commission shall consider all written and oral  
659 comments received.  
660
- 661 M. If no written notice of intent to attend the public hearing by interested parties is received, the  
662 Commission may proceed with promulgation of the proposed Rule without a public hearing.  
663
- 664 N. The Commission shall, by majority vote of all members, take final action on the proposed  
665 Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking  
666 record and the full text of the Rule.  
667
- 668 O. Upon determination that an emergency exists, the Commission may consider and adopt an  
669 emergency Rule without prior notice, opportunity for comment, or hearing, provided that the  
670 usual Rulemaking procedures provided in the Compact and in this Article shall be  
671 retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety  
672 (90) days after the effective date of the Rule. For the purposes of this provision, an  
673 emergency Rule is one that must be adopted immediately in order to:  
674
- 675 1. Meet an imminent threat to public health, safety, or welfare;  
676
  - 677 2. Prevent a loss of Commission or Member State funds;  
678
  - 679 3. Meet a deadline for the promulgation of an administrative Rule that is established by  
680 federal law or Rule; or  
681
  - 682 4. Protect public health and safety.  
683
- 684 P. The Commission or authorized committee of the Commission may direct revisions to a  
685 previously adopted Rule or amendment for purposes of correcting typographical errors, errors  
686 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
687 posted on the website of the Commission. The revision shall be subject to challenge by any  
688 person for a period of thirty (30) days after posting. The revision may be challenged only on  
689 grounds that the revision results in a material change to a Rule. A challenge shall be made in  
690 writing and delivered to the chair of the Commission prior to the end of the notice period. If  
691 not challenge is made, the revision will take effect without further action. If the revision is  
692 challenged, the revision may not take effect with the approval of the Commission.  
693

694 **ARTICLE 11- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

695 A. Oversight

696

697 1. The executive, legislative, and judicial branches of State government in each Member  
698 State shall enforce this Compact and take all actions necessary and appropriate to  
699 effectuate the Compact's purposes and intent. The provisions of this Compact and the  
700 Rules promulgated hereunder shall have standing as statutory law.

701

702 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or  
703 administrative proceeding in a Member State pertaining to the subject matter of this  
704 Compact which may affect the powers, responsibilities, or actions of the Commission.

705

706 3. The Commission shall be entitled to receive service of process in any such proceeding,  
707 and shall have standing to intervene in such a proceeding for all purposes. Failure to  
708 provide service of process to the Commission shall render a judgment or order void as to  
709 the Commission, this Compact, or promulgated Rules.

710

711

712 B. Default, Technical Assistance, and Termination

713

714 1. If the Commission determines that a Member State has defaulted in the performance of  
715 its obligations or responsibilities under this Compact or the promulgated Rules, the  
716 Commission shall:

717

718 a. Provide written notice to the defaulting State and other Member States of the nature  
719 of the default, the proposed means or curing the default and/or any other action to be  
720 taken by the Commission; and

721

722 b. Provide remedial training and specific technical assistance regarding the default.

723

724 2. If a State in default fails to cure the default, the defaulting State may be terminated from  
725 this Compact upon an affirmative vote of a majority of the Member States, and all rights,  
726 privileges and benefits conferred by this Compact may be terminated on the effective  
727 date of termination. A cure of the default does not relieve the offending State of  
728 obligations or liabilities incurred during the period of default.

729

730 3. Termination of membership in the Compact shall be imposed only after all other means  
731 of securing compliance have been exhausted. Notice of intent to suspend or terminate  
732 shall be given by the Commission to the governor, the majority and minority leaders of  
733 the defaulting State's legislature, and each of the Member States.

734

735 4. A State that has been terminated is responsible for all assessments, obligations, and  
736 liabilities incurred through the effective date of termination, including obligations that  
737 extend beyond the effective date of termination.

738

739 5. The Commission shall not bear any costs related to a State that is found to be in default or  
740 that has been terminated from the Compact, unless agreed upon in writing between the  
741 Commission and the defaulting State.  
742

743 6. The defaulting State may appeal the action of the Commission by petitioning the U.S.  
744 District Court for the District of Columbia or the federal district where the Commission  
745 has its principal offices. The prevailing party shall be awarded all costs of such litigation,  
746 including attorney's fees.  
747

748 C. Dispute Resolution  
749

750 1. Upon request by a Member State, the Commission shall attempt to resolve disputes  
751 related to the Compact that arise among Member States and between Member States and  
752 non-Member States.  
753

754 2. The Commission shall promulgate a Rule providing for both mediation and binding  
755 dispute resolution for disputes as appropriate.  
756

757 D. Enforcement  
758

759 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions  
760 and Rules of this Compact.  
761

762 2. By majority vote, the Commission may initiate legal action in the United States District  
763 Court for the District of Columbia or the federal district where the Commission has its  
764 principal offices against a Member State in default to enforce compliance with the  
765 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may  
766 include both injunctive relief and damages. In the event judicial enforcement is  
767 necessary, the prevailing member shall be awarded costs of such litigation, including  
768 attorney's fees.  
769

770 3. The remedies herein shall not be the exclusive remedies of the Commission. The  
771 Commission may pursue any other remedies available under federal or State law.  
772

773 **ARTICLE 12- DATE OF IMPLEMENTATION OF THE INTERSTATE MASSAGE**  
774 **THERAPY COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL,**  
775 **AND AMENDMENT**

776 A. The Compact shall come into effect on the date on which the Compact statute is enacted into  
777 law in the seventh Member State. The provisions, which become effective at that time, shall  
778 be limited to the powers granted to the Commission relating to assembly and the  
779 promulgation or Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
780 powers necessary to the implementation and administration of this Compact.  
781

- 782 B. Any State that joins the Compact subsequent to the Commission’s initial adoption of the  
783 Rules shall be subject to the Rules as they exist on the date on which the Compact becomes  
784 law in that State. Any Rule that has been previously adopted by the Commission shall have  
785 the full force and effect of law on the day the Compact becomes law in that State.  
786
- 787 C. Any Member State may withdraw from this Compact by enacting a statute repealing the  
788 same.  
789
- 790 1. A Member State’s withdrawal shall not take effect until six (6) months after the  
791 enactment of the repealing statute.  
792
- 793 2. Withdrawal shall not affect the continuing requirement of the withdrawing State’s  
794 Licensing Authority to comply with the investigative and Adverse Action reporting  
795 requirements of this Compact prior to the effective date of withdrawal.  
796
- 797 D. Nothing contained in this Compact shall be construed to invalidate or prevent any Massage  
798 Therapy licensure agreement or other cooperative agreement between a Member State and a  
799 non-Member State that does not conflict with the provisions of this Compact.  
800
- 801 E. This Compact may be amended by the Member States. No amendment to this Compact shall  
802 become effective and binding upon any Member State until it is enacted into the laws of all  
803 Member States.  
804  
805

806 **ARTICLE 13- CONSTRUCTION AND SEVERABILITY**

807 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions  
808 of this Compact shall be severable and if any phrase, clause, sentence, or provision of this  
809 Compact is declared to be contrary to the constitution of any Member State or of the United  
810 States or the applicability thereof to any government, agency, person, or circumstance is held  
811 invalid, the validity of the remainder of this Compact and the applicability thereof to any  
812 government, agency, person, or circumstance shall not be affected thereby. If this Compact shall  
813 be held contrary to the constitution of any Member State, the Compact shall remain in full force  
814 and effect as to the remaining Member States and in full force and effect as to the Member State  
815 affected as to all severable matters.  
816

817 **ARTICLE 14- BINDING EFFECT OF COMPACT AND OTHER LAW**

- 818 A. Nothing herein prevents the enforcement of any other law of a Member State that is not  
819 inconsistent with this Compact.  
820
- 821 B. Any laws in a Member State in conflict with this Compact are superseded to the extent of the  
822 conflict.  
823
- 824 C. Any lawful actions by the Commission, including all Rules and bylaws promulgated by the  
825 Commission, are binding upon the Member States.



826  
827  
828  
829

D. All agreements between the Commission and the Member States are binding in accordance with their terms.

DRAFT



# COMMONWEALTH of VIRGINIA

David E. Brown, D.C.  
Director

## Department of Health Professions

Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico, Virginia 23233-1463

www.dhp.virginia.gov  
TEL (804) 367- 4400  
FAX (804) 527- 4475

Case Category Report for Nursing - Cases Received Between:							
		<u>1/1/2017 -</u> <u>12/31/2017</u>	<u>1/1/2018 -</u> <u>12/31/2018</u>	<u>1/1/2019 -</u> <u>12/31/2019</u>	<u>1/1/2020 -</u> <u>12/31/2020</u>	<u>1/1/2021 -</u> <u>12/31/2021</u>	<u>1/1/2022 -</u> <u>09/30/2022</u>
01	Inability to Safely Practice	4	6	5	7	11	5
02	Drug Related, Patient Care	1					
03	Abuse/Abandonment/Neglect	13	17	23	11	15	3
05	Std of Care, Diagnosis/Treatment	8	8	4	3	5	2
07	Std of Care, Malpractice Reports		1	1			
08	Std of Care, Exceeding Scope	4		1			2
09	Std of Care, Other				1		
10	Inappropriate Relationship	17	16	24	16	20	8
11	Unlicensed Activity	19	15	9	3	6	3
14	Action by Another Board, Patient Care	1	1			3	
50	Criminal Activity	14	9	11	5	12	7
51	HPMP				1	1	
52	Drug Related, Non-Patient Care	1					
53	Fraud, Non-Patient Care	13	2	17	10	5	2
54	Business Practice Issues	9	10	8	10	7	6
56	Compliance	2	1		2	1	3
57	Misappropriation of Property, NPC	1					
59	Continuing Competency Req Not Met			7	2	2	
62	Action by Another Board, NPC	2		2	2		
63	Reinstatement	1	2	2	1	1	2
64	Eligibility	<u>25</u>	<u>13</u>	<u>19</u>	<u>11</u>	<u>7</u>	<u>7</u>
		<b>135</b>	<b>101</b>	<b>133</b>	<b>85</b>	<b>96</b>	<b>50</b>

### Massage Advisory Board Members

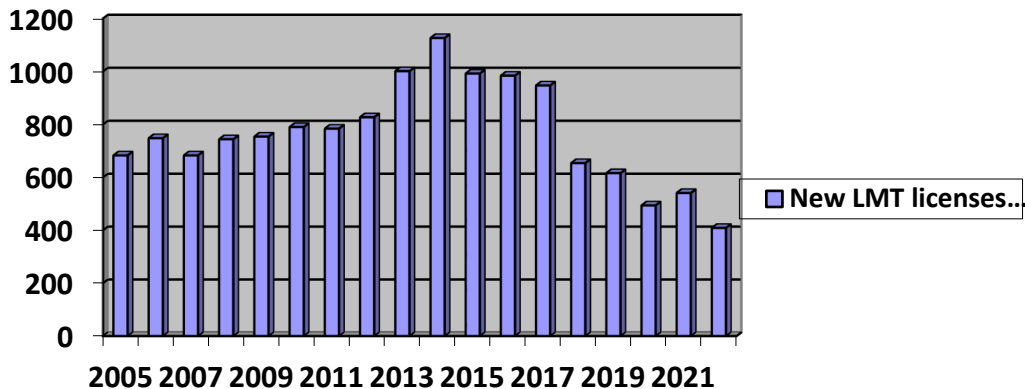
(Revised October 4, 2022)

<b>NAME:</b>	<b>TERM EXPIRES:</b>
Shawnté Peterson, LMT, Chair, Chesapeake	2023
Dawn M. Hogue, MA, LMT, Vice Chair, Virginia Beach	2024
Erin C. Osiol, MSW, LMT, Richmond	2023
María Mercedes Olivieri, LMT. Burke	2024
P. Lisabeth Speller, RN, BSN, MS, Citizen Member, Glen Allen	2025

### STATISTICAL INFORMATION

#### Number of new Massage Licenses **Issued**

2022 (Jan 1- <b>Sept 30</b> )	409
2021 (Jan 1- Dec 31)	541
2020 (Jan 1- Dec 31)	494
2019 (Jan 1- Dec 31)	616
2018 (Jan 1- Dec 31)	796
2017 (Jan 1- Dec 31)	947
2016 (Jan 1- Dec 31)	984
2015 (Jan 1- Dec 31)	992
2014 (Jan 1- Dec 31)	1,126
2013 (Jan 1- Dec 31)	1,001
2012 (Jan 1- Dec 31)	827
2011 (Jan 1- Dec 31)	784
2010 (Jan 1- Dec 31)	790
2009 (Jan 1- Dec 31)	754
2008 (Jan 1- Dec 31)	744
2007 (Jan 1- Dec 31)	683
2006 (Jan 1- Dec 31)	748
2005 (Jan 1- Dec 31)	683



MBLEX was accepted as exam for certification in Virginia as of July 1, 2013

Total # of massage therapist **currently** active in Virginia as of **October 4, 2022: 8,177**

Online Massage Applications Received

	By Application	By Endorsement	Total
2022 (Jan 1 – <b>Sept 30</b> )	289	138	427
2021 (Jan 1 – Dec 31)	410	153	563
2020 (Jan 1 – Dec 31)	376	147	523
2019 (Jan 1 – Dec 31)	504	195	699
2018 (Jan 1 – Dec 31)	564	227	791
2017 (Jan 1 – Dec 31)	747	205	952
2016 (Jan 1 – Dec 31)	839	255	1,094
2015 (Jan 1 – Dec 31)	766	210	976
2014 (April 1 -Dec 31)	450	156	606

- The Virginia Board of Nursing started accepting massage applications online as of April 2014
- Implementation of Licensure for Massage Therapist effective January 1, 2017 (*from Certified Massage Therapist-CMT to Licensed Massage Therapist-LMT*)
- Pursuant to Virginia Code 54.1-3005.1, the Virginia Board of Nursing incorporated both state and federal criminal background checks as part of the application process for Massage Therapist effective January 1, 2017. This requirement applies to applicants by initial application, endorsement and reinstatement.
- Effective April 16, 2020, the Board of Nursing no longer provides official verification for licensees wishing to obtain out-of-state licensure. Licensees are directed to [License Lookup](#).
- Effective September 30, 2020, pursuant to Virginia Code 54.1-3029, the Virginia Board of Nursing clarified the requirement for applicants to have **completed** a massage therapy program that is at least 500 hours, **and** requires a Board-approved English-proficiency exam for applicants educated outside of the United States.

**LMT Total Count (October 1, 2021 - September 30, 2022)**

New Applications (initial & endorsement- paper & online)	559
Duplicate License Request	203
Duplicate Wall Certificate Request	43
Verification Requests <sup>1</sup>	4
Reinstatement Application after Discipline	1
Reinstatement Applications	50
Renewals	3,590
Late Renewals	311

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<sup>1</sup> Effective April 16, 2020, requests for verification are directed to License Lookup. Fees received were money order payments.

# A Toolkit for Identifying Human Trafficking and Fraud in Higher Education

Lorna Candler, J.D. and Debra Persinger, Ph.D.

Summer 2022



**COLORADO**  
Department of  
Higher Education



**FSMTB**<sup>®</sup>  
FEDERATION OF STATE  
MASSAGE THERAPY BOARDS



## Acknowledgments

The authors wish to thank Colorado Department of Higher Education team members Mary Kanaly and Bradlee Uyemura; Federation of State Massage Therapy Boards team member Colby Dixon; members of the Federation Authentic Information Review (FAIR) Task Force; and all regulators and administrative staff at state massage therapy licensing boards and higher education agencies.

We particularly wish to thank our peer reviewers who provided critical feedback on the penultimate draft of this document.

We also owe a debt of gratitude to the Seldin/Haring-Smith Foundation for their generous support of this project. In particular, the intellectual curiosity, passion for justice, and editorial insights from Abigail Seldin and Dr. Ellie Bruecker have been invaluable and gratefully appreciated.

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# Introduction

Human trafficking in adults involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act<sup>1</sup>. Human trafficking is an insidious crime and affects a variety of communities and industries. The purpose of this toolkit is to provide a practical guide for state authorizers to identify and take action on human trafficking in higher education institutions.

In the majority of the higher education-related trafficking cases we have encountered, the schools under suspicion are also in violation of a variety of state standards. These “red flags” independently constitute violations of state standards, and thereby require investigative or disciplinary action by state regulators. The most basic violations of record keeping (attendance, payment records, tracking progress, etc.) may be indicators of a far more pernicious violation.

The problem of human trafficking within higher education is multi-faceted. Both labor trafficking and sex trafficking occur in higher education, perpetrated by both individual actors and organized entities. This document is limited in scope and focuses on sex trafficking that is increasingly perpetrated in higher education by organized, sophisticated criminal enterprises that stretch regulatory and enforcement resources. In a number of cases, institutions of higher education offered an effective front for concealing trafficking-related illegal business activities. For example, state-authorized schools have engaged in fraudulent practices such as the bulk selling of illegitimate vocational degrees, diplomas, certificates, or transcripts, for traffickers to fraudulently seek licenses for their trafficking victims in order to offer sexual services under the guise of massage therapy.

State authorizers should aim to ensure accountability. Rigorous school oversight is critical in order to protect students, schools, and the public from low standards that promote the preconditions for fraud, deficient record keeping, and other dubious activity.

1. This definition is drawn from the [U.S. Department of Homeland Security](#).



This toolkit is specifically designed to assist state regulators and agencies, organizations, or entities that regularly intersect with the responsibilities and duties of state regulators (as discussed below). Thanks to the proactive and positive response from our fellow state regulators to recent discussions of this issue, we have opted to build this toolkit to answer their most pressing questions:

- **How do I identify if a school is engaged in trafficking?**

- **Do I have authority to act, and what do I do next?**

- **How do I support the victims, and when should I engage law enforcement?**

While the issue of trafficking in higher education remains complex, we designed this toolkit to serve as a practical introduction for how state higher education officials may engage with this challenge.

We hope this toolkit provides insights and fundamental preventative measures that we have deployed to successfully make an impact by methodically and collaboratively addressing red flags and fact patterns that often lead to trafficking networks among higher education institutions.

## Scope, Authority, and Duties of State Regulators

To offer occupational credentials or degrees, a postsecondary school must secure authorization from the designated state agency. Each state's specific regulatory language differs slightly, but the general scope requires state regulators to authorize or certify schools to operate after assessing and evaluating school applications (financial, instructional/educational and business documents) for initial licensure or renewal. The process also encompasses site visits and such things as verifying that essential training equipment is present. Most importantly, state authorizers also have a duty to protect consumers and other constituents of their state against fraudulent or substandard schools and/or agents. State authorizers typically approve and oversee postsecondary institutions in the private sector, including both Title IV and non-Title IV eligible institutions.

The powers of authorizers vary significantly across states. In addition to wide ranges in budgets and legal authority, state authorizers require different information and different cadences for authorization renewal across states.

States may also assign oversight and approval authority for certain vocational programs to agencies other than the primary post-secondary state agency, such as their respective licensure boards or state departments of health. Even in states where the primary post-secondary state authorizing body retains oversight of these schools, professional licensing boards provide an important secondary form of quality assurance for these institutions. While many professional licensing boards cannot regulate institutions directly, they serve a critical function in identifying bad actors. In our experience, licensing boards have identified schools that produce graduates who routinely fail licensure exams and uncovered coordinated attempts by fraudulent schools to cheat on the exams that assess competence and provide public protection.

While state authorizers are not vested with criminal law enforcement power and cannot act as agents of law enforcement agencies, the general scope of authority does provide unique and important responsibilities that may serve to identify trafficking in postsecondary settings. In particular, they oversee operations and records for many sectors in which human trafficking is prevalent (notably massage therapy, cosmetology, and truck driving operations). Valuable information is conveyed through records and documents.

Unlike many professions, states that regulate massage therapy do not recognize a singular national accrediting authority<sup>2</sup>. Since the school review process varies among states in depth and breadth, states that endorse education from schools approved in other states are dependent upon the standards of an approval or accrediting body that may apply lesser standards. Degree mills, accreditation mills, and visa mills therefore operate in an environment that lacks a uniform, national school accreditation mechanism that could eliminate this lowest common denominator portability dilemma.

Although each state is governed by its own specific laws and rules, generally speaking, all state authorizers establish and maintain accountability for institutions through standards related to quality educational services, fiscal responsibility, and ethical business practices.

**How do these standards empower state authorizers with the authority to act on suspicions of involvement in human trafficking?** The clearest explanation can be found in the Minnesota Office of Higher Education’s revocation order to a school in February 2020:

“While OHE does not investigate or regulate prostitution and/or human trafficking, any links to prostitution and/or human trafficking indicate a lack of authenticity and legitimacy of a private postsecondary education institution and its programs.”

Nonetheless, the suspicions of human trafficking in this case did not provide justification for the revocations; it was the numerous violations of state higher education standards that enabled the state authorizer to revoke the school’s authorization. Only through the effective engagement of the existing scope of authority was action available.

<sup>2</sup> There are currently two principal pathways of review: voluntary peer review organizations (regional and national) like COMTA; and state approval entities that are provided with legal authorization to operate. State massage therapy boards are typically involved only insofar as the approval or accreditation relates to massage therapist credential application requirements, and the United States Department of Education’s (DOE) accreditation concerns are principally with an institution’s stability, including its financial profile for financial aid purposes.” See [Federation of State Massage Therapy Boards](#).



## Red Flags: Causes for Concern

For simplicity, we have combined red flags for licensure offices and those for state authorizers. Authorizers should be aware of red flags related to quality of educational services, fiscal responsibility, and ethical/legal business practices during both the initial approval and renewal processes and on-going oversight activities, such as announced and unannounced site visits. In states where licensure boards also act as school authorizers, licensure application red flags are equally critical. In states where authorizers operate separately from licensure boards, authorizers should be prepared to recognize these circumstances as causes for concern if alerted by a licensing agency.


When investigating a school, regulators should take the time to run Google searches on owners<sup>3</sup>, operators, and schools to determine whether there are associations with illicit or sexually-oriented businesses or other commercial exploitation practices. Similarly, regulators should make inquiries to other agencies in their states and in other states to gather important information prior to approving schools whose owners and agents may have records of noncompliance or criminal conduct in other states. Coordination among and between states and federal agencies is vital for effective regulation.

<sup>3</sup> State authorizers do not typically have the authority to run background checks on school owners or operators.

## Quality of educational services and violations of ethical business practices


-  Absence of textbooks, teaching aids (such as skeletons and anatomy charts), or necessary equipment (such as massage tables and privacy screens)
-  Indications that the facility is being used as residence: food storage in rooms, sleeping bags, scent of cooking, laundry containing personal clothing items as opposed to appropriate supplies such as sheets or towels
-  The school's facility is a one room office with no separate or sanitary conditions for clinical practice; the address of school is an empty parking lot or other inaccurate location
-  Instruction or instructor qualifications are not compliant with industry standards or the school's advertisements; instructors that are not qualified, not licensed, not in good standing, or have previous arrests for solicitation or related offenses
-  Inconsistent dates on documentation, such as inconsistent time-cards or a mismatch between number of hours listed on transcript with those in course catalog, lack of appropriate signatures on agreements or enrollment contracts
-  Insufficient documentation of benchmarks met and courses completed, or school transcripts that do not indicate hours transferred, school seal, dates of attendance or date of program completion or graduation
-  Low graduation rates or low or inconsistent passage rates on licensure exams
-  Graduating or certifying a student who has not sufficiently completed all necessary course content and hours is a direct prohibition of each state's statute


## Fiscal responsibility and ethical and legal requirements

-  School bond coverage submitted to the state is discrepant with the number of certificates of completion awarded. For example, if a school is bonded for 20 students but is graduating a significantly different number, it is an independent violation and also an indicator that the school may be a diploma mill. Schools have bonds for the purpose of adequately refunding students for prepaid educational services that are not delivered. The bond is also optimally designed to ensure that the education that is provided is quality education that will result in licensure or certification that will lead to gainful employment.


## Licensure Applications


### Paperwork


 Address inconsistencies such as the same mailing address is used for multiple applicants; application materials sent from an address that does not match the applicant's address or from multiple different addresses; or mailing addresses that do not return to a residence, or more specifically, return to a massage or nail business


 Essential personal information, such as date of birth or Social Security number, is inconsistent across documentation or matches those of other applicants

 Handwriting on documents from third parties is similar to handwriting on documents from applicant, similar or identical handwriting for multiple different applicants, or applicant signature does not match across documents

 School-related documents have discrepancies, such as a mismatch between the school name on documents provided for licensing exam purposes and on transcripts provided with the licensure application, or inconsistent course hour totals on transcripts from the same institution; school transcripts are submitted by another person or entity rather than the institution




 Alterations to certificates of completion related to the continuing education provider, such as signatures, dates, hours/credits awarded, grades achieved, and attendance, or document alterations changing the name of the applicant or Social Security number

 Unsigned or undated documents submitted for licensure, or fraudulent resident or employment cards



 Misspelled words on official or school-issued documentation, or the use of different ink, font, font sizes, and smudges on the same document

## Licensure Applications

### Applicant conduct

-  Unusual behavior by the applicant, such as refusing to provide necessary material in a reasonable timeframe or to accept/return phone calls; excessive contact with the agency through telephone calls, e-mails, and/or frequent walk-ins; inability to provide forms of personal identification; extreme explanations regarding their inability to provide required documentation, including when requested during investigation (e.g., the school owner died or the school burned down)
-  Individuals other than the applicant attempt to contact the licensing agency claiming to be a friend, spouse, church sponsor, or teacher
-  Nondisclosure by the applicant of required information, such as identifying all states in which they have applied for licensure, other professional licenses previously held, disciplinary history or pending investigations in other states, accurate criminal history as required by the jurisdiction

### Association with sexually-oriented businesses

-  Past disciplinary action by licensing authority, investigations, or previous arrests related to the practice of massage or illegal operation of an establishment; receipt of reports from law enforcement agencies revealing criminal history and/or investigation pertaining to sexually-oriented business operations
-  Address of the applicant or school appears on sites offering sexually-oriented services

# Interagency Collaboration

State authorizers, state licensing boards, the Federation of State Massage Therapy Boards, and other higher education regulators are neither designed nor equipped to combat human trafficking single-handedly. However, a collaborative, multidisciplinary model is effective and necessary to combat human trafficking. Through interagency collaboration, the many complex indicators of this type of human trafficking in or facilitated by higher education can be strategically addressed, perpetrators can be held to account, and survivors can be protected from re-victimization. The creation of a multi-agency task force will provide an opportunity to build these critical partnerships, aggregate resources, and ensure cross-training.

When you begin to build a task force to address sex trafficking in higher education – or if you expand an existing trafficking task force to include a focus on higher education – we recommend you seek the inclusion of the following stakeholders, and clearly define the roles of each:

- State Business License Agency / Professional Licensure Agency**
- Other States and Jurisdictions**
- Programmatic and Institutional Accrediting Agencies**
- State and Federal Law Enforcement Agencies or Departments**
- Victim Services**
- Anti-Human Trafficking Coalition or Agency**
- Expert in Trauma-Informed Practice**

At a more granular level, authorizers may wonder when the right time is to engage other agencies in an investigation. While conditions vary by state and circumstance, we have included information to highlight the key players in our own interagency collaborations. When in doubt, opt to engage law enforcement for safety, and victim services familiar with human trafficking, in order to support the survivors.



### **Victim Services**

The welfare of students, regardless of nationality, is central to state higher education regulators, and this commitment necessitates a strong working relationship with victim services. Connecting with the correct person(s) within your state will be case-specific, so the best practice is to identify the appropriate partners prior to launching any specific investigation. Preemptively joining a state or local task force will prove helpful for building trust and relationships with a cadre of resources and people specifically trained in supporting those subjugated to human trafficking and in language translation when necessary. The National Human Trafficking Hotline (1-888-373-7888) can also help you identify support in your area.

When beginning or strategizing for an investigation, keep in mind that victim services should not be your last call. Law enforcement is a crucial partner in this work, though victim services must be independent of – yet work collaboratively with – law enforcement. State regulators and other agencies should enlist victim services prior to an unannounced site visit to a school suspected of involvement in trafficking. If you are working with students who are not U.S. citizens, victim services will ideally include access to an immigration lawyer who is familiar with the complexities of human trafficking and options that are offered for victims of trafficking, or for students who may be at risk of deportation. You can also consider whether there is a need to have interpreters available and on-site.

It is wise to request victim services to accompany you to the school in circumstances where you suspect involvement in human trafficking. If this suspicion is not triggered until the visit, it is important to have a list of resources available (in the languages of students) as soon as possible. Again, err on the side of caution by utilizing victim services to assist with human trafficking victims to ensure that the state authorization process does not revictimize the individuals who are subjected to human trafficking.

Many victims of human trafficking are at risk of criminal charges or deportation; they may never feel comfortable disclosing information without support and guidance from an independent advocate. Understand that the majority of victims will not prosecute their trafficker, yet they must agree to cooperate with law enforcement to receive the trafficking-specific services. Remember, a victim-centered approach holds the victim's wishes and well being as priority in all matters and procedures.

### **Law Enforcement**

Law enforcement professionals have shared that the illicit massage industry is a particularly vexing issue, and have highlighted that working relationships with authorizers can be essential for identifying and prosecuting traffickers. Early in an investigation, regulators should engage local law enforcement to check for existing concerns or complaints connected with a suspected school and/or its associated businesses. Where there is a safety concern, regulators may ask that local law enforcement join unannounced site visits. If human trafficking is suspected, law enforcement should be called in conjunction with victim services. Victims may be wary of law enforcement, or some law enforcement may be unfamiliar with human trafficking and may criminally charge victims instead of supporting them as victims.

Similarly, regulators should invest in relationships with the local field office of the Federal Bureau of Investigation (FBI) and United States Citizenship and Immigration Services (USCIS), as they may encounter schools with operations in multiple states. Colorado has formed a task force with local, state and federal law enforcement agencies. Most likely, state regulators will be contacted by FBI or other federal agencies after the state agency has initiated contact because most federal investigations are highly confidential. However, once you have established a relationship with your local FBI agents, you may work in collaboration by communicating with them prior to your investigation or informing them of suspected trafficking operations. (Always remember that state authorizers may not act as agents of any law enforcement agency, but may communicate relevant information for the purposes of best managing resources for appropriate legal action). Even if you are unsure if human trafficking is occurring, it is important to contact law enforcement so that they can make the assessment and/or decide if another criminal violation is occurring.

### **State Business License Agency / Professional Licensure Agency**

When beginning an investigation, regulators should reach out to these agencies to look for sanctioned or expired business licenses or professional licenses connected to the school, its owners, its instructors, and its alumni.

### **Federation of State Massage Therapy Boards (FSMTB) and National Association of State Administrators and Supervisors of Private Schools (NASASPS)**

When beginning an investigation, regulators should reach out to these membership associations to learn whether regulators in other states have encountered a particular school or its owners in other states. FSMTB and NASASPS continue to build out educational materials to support regulators investigating suspicions of trafficking.

### **US Department of Education and Accreditation Agencies**

If the school under investigation is accredited and/or eligible to administer federal student aid, regulators should reach out to the US Department of Education, including its Office of Inspector General, and the school's institutional and/or programmatic accreditor prior to taking any official action.

### **Attorney General Office / District Attorney**

Regulators should connect with their Attorney General or relevant District Attorney after the investigation has matured to the point where agency action is likely or the state agency has determined that law enforcement is in a better position to manage the case and conveys that to the appropriate agency. It is always best practice to follow up and ensure the agency has acted or is in the process of acting (and documenting your files). Maintain open communication through the investigation and create channels for communication in future cases or inquiries.

## **What happens to the students at a school under suspicion of involvement in human trafficking?**

Authorizers should engage other agencies to ensure that victims are not mistaken for culprits in these complicated schemes – and to minimize re-victimization. It is critical to inform sister agencies of actions that may have collateral damage or cross impact. For example, an action by a state licensing board may impact a graduate or licensee's license and require additional training hours to reestablish compliance. If this occurs, it will be critical to inform the agency overseeing the education that such mandates are forthcoming, so that the agency can be prepared to arrange appropriate educational courses or approvals. When communications are not timely, agencies are working at cross purposes and students who have been harmed in the diploma mill may be unnecessarily re-victimized. As discussed in the previous section, foreign national students may be at particular risk in these situations, as their immigration status may be dependent on their enrollment in school. By changing their school situation, they may be at risk of deportation, which in some situations simply sends them back to their trafficker.

## Best Practices and Policy Recommendations

The strength of educational oversight regulations also varies by state, and human traffickers have demonstrated a sophistication in selecting new jurisdictions for operation. State authorizers and licensure boards must be aware of their own regulatory structure and those of neighboring states. For example, in states where massage therapy is not regulated at all, there may be no oversight other than the payment and transactional issuance of a business license. This permits known diploma mill operators to reopen under another school name in the same state or a neighboring state if the original school is caught for fraud.

Licensure boards can be on the lookout for fraudulent schools in reviewing applications for licensure. For example, a state's massage licensing board may not accept online education, yet the applicant's transcript shows and/or the school verifies and/or the student claims to have completed some or all of their education online. An applicant might also provide a transcript for an out-of-state school that is not approved to operate by that state; many states have lists of approved schools that licensure boards can review (available by request or published on a website).

Governors and state legislators can also act preemptively to structure policy to better protect students. We offer these specific policy recommendations:

- **Allocate adequate resources to state authorizers.** State authorizing bodies are responsible for ensuring consumer protection in a wide range of educational institutions. Understaffed and underfunded agencies may lack the resource and staffing capacity to monitor institutions for indicators of human trafficking.
- **Track educational institutions on professional licenses.** In prior cases, authorizers have found a pattern of sanctioned massage therapy licenses held by graduates of a particular school. In states that do not track the school where the licensee was trained, it would be difficult for authorizers or licensure boards to identify these patterns.
- **Allow complaints to be filed by non-students.** Victims of trafficking tactics and diploma mills are least likely to report the scheme in which they are engaged. And yet, some states require complainants to be students of the school, preventing the state agency from acting on a complaint from an organization like the Federation of State Massage Therapy Boards.
- **Support sensible massage therapy regulation,** including uniform educational standards; independent assessment of professional competence; allocation of resources for technology to support data gathering and sharing, investigation and enforcement; establishment oversight; and educational initiatives for interagency collaboration and consumer protection.

## Lessons Learned

Addressing human trafficking within the confines of our regulatory authority is important work; these abuses epitomize the most egregious problems in society. It is another reason why our regulatory agencies must exist. Rarely does one agency have all the information, and no agency can handle human trafficking alone. State regulators are not trained to be experts in human trafficking, so we encourage you to ask for help and support. We don't know what we don't know, and resources or pieces of the equation that you have not yet learned about may be overlooked.

Even if you are in a larger agency with more resources, or have more experience, please understand that this work takes time and coordination with other agencies. It takes perseverance and endurance. Inevitably, you may need to re-prioritize regular duties – all the more reason for forging and nurturing partnerships and resources.

Success in combating this problem will depend not just on the number of recommended solutions that are pursued, but also on the degree of collaboration and level of sustained commitment to reducing the prevalence and impact of the problem over the long term. There is no doubt that stakeholders need to communicate and work together outside of our own silos to check the interstate movement of human traffickers and their negative effects on the massage profession and public safety. Interagency and cross-jurisdictional collaboration will be necessary. While not all human trafficking has an interstate component, the state-based structure of licensing enhances the risk that bad actors slip through the cracks of our existing regulatory framework. And though our organizational goals and roles differ, we know from experience that a multidisciplinary, victim-centered, culturally sensitive/appropriate, and trauma-informed approach, based on a shared vision and purpose, is both effective and necessary.

Do not underestimate the emotional labor component that this work requires. Compassion fatigue is real. The cheating, lies, and deceit are rampant; one could easily become jaded. But we must not lose hope or commitment. We must persist because justice requires a constant, unrelenting effort. We are in a privileged position to bring our humanity to work at every opportunity, and unity in the enforcement community can make all the difference to improving the human condition. We hope that this toolkit will improve all of our efforts in the future. Your work – and our collective work – makes a difference!

## **Authors and Organizations**

Lorna Candler is the Director of the Division of Private Occupational Schools (DPOS) at the Colorado Department of Higher Education. The mission of DPOS is to improve private occupational schools and their educational services and to protect the citizens of Colorado against fraudulent or substandard schools.

Dr. Debra Persinger is the Executive Director of the Federation of State Massage Therapy Boards (FSMTB). FSMTB is a not-for-profit corporation whose membership is comprised of the massage therapy regulatory boards and agencies in the United States and Territories. The mission of FSMTB is to provide programs and services that assist its Member Boards in public protection through regulation of the profession of massage therapy.

On behalf of its Members, the FSMTB develops and administers the Massage & Bodywork Licensing Examination (MBLEx) that is the assessment tool used by the majority (96%) of states to determine safety and competence of those seeking to be licensed massage therapists. MBLEx eligibility requirements include verification of massage therapy education and training. This is commonly where FSMTB intersects with fraudulent application documentation and tactics.

## **Additional Resources**

### **The Federation of State Massage Therapy Boards**

The Federation of State Massage Therapy Boards is a not-for-profit corporation whose membership is comprised of the massage therapy regulatory boards and agencies in the United States and Territories.

### **U.S. Department of Homeland Security - Blue Campaign**

Blue Campaign is a national public awareness campaign designed to educate the public, law enforcement, and other industry partners to recognize the indicators of human trafficking, and how to appropriately respond to possible cases.

### **Helen Bamber Foundation**

The Helen Bamber Foundation is a human rights charity based in London which provides therapeutic care, medical consultation, legal protection and practical support to survivors of human rights violations. The Foundation's [Trauma-Informed Code of Conduct](#) is a useful resource.

### **Polaris Project**

Polaris is non-profit organization that works to combat sex and labor trafficking through data-driven projects, and operates the National Human Trafficking Hotline.

### **Truckers Against Trafficking**

Truckers Against Trafficking is a non-profit that exists to educate, equip, empower and mobilize members of the trucking, bus and energy industries to combat human trafficking.

### **Denver Anti-Trafficking Alliance**

The Denver Anti-Trafficking Alliance works to facilitate a victim-centered, multidisciplinary response to human trafficking in Denver through enhancing collaborative efforts; supporting trauma-informed services; promoting collaborative investigations and prosecution; improving education and awareness; and advancing public policy and advocacy.

### **Colorado Human Trafficking Council**

The Colorado Human Trafficking Council is designed to bring together leadership from community-based and statewide anti-trafficking efforts; build and enhance collaboration among communities and counties within the state; establish and improve comprehensive services for victims and survivors of human trafficking; assist in the successful prosecution of human traffickers; and help prevent human trafficking in Colorado.



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Commonwealth of Virginia  
Office of the Governor

## Executive Order

### **NUMBER SEVEN (2022)**

#### **ESTABLISHING THE COMMISSION ON HUMAN TRAFFICKING PREVENTION AND SURVIVOR SUPPORT**

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order establishing a commission to prevent human trafficking and provide support to its victims.

#### **Importance of the Initiative**

Human trafficking is a global epidemic. Through force, fraud, or coercion, criminals exploit men, women, and children into sex trafficking and forced labor. Around the world, at any given moment, an estimated 24.9 million people are victims of this criminal exploitation. Our Commonwealth has not been spared from the reach of these abhorrent crimes. According to Polaris, a nonprofit resource and advocacy center combating human trafficking, there were 179 cases of trafficking and seventy-seven traffickers identified in Virginia in 2019 alone.

Virginia is committed to ending the scourge of human trafficking. Each day, our law enforcement officers and court systems work to apprehend, prosecute, and bring to justice those responsible for the exploitation of their fellow human beings. The conviction of human traffickers, restitution for their victims, and assistance for the survivors remains a top public safety priority for the Commonwealth. We must remain proactive in our efforts and ensure the dedicated professionals who work tirelessly to combat human trafficking are equipped with the tools necessary to win this fight.

#### **Establishment of the Commission**

Accordingly, by virtue of the authority vested in me as Governor, under Article V of the Constitution of Virginia and §§ 2.2-134 and 2.2-135 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Human Trafficking Prevention and Survivor Support Commission (Commission).



## **Composition and Support of the Commission**

The Governor will appoint the members and chair(s) of the Commission; the Sex Trafficking Response Coordinator will also participate in the Commission.

The Governor will select survivors of human trafficking, law enforcement officers, prosecutors, experts, and scholars with knowledge of and/or experience with human trafficking, and victims of human trafficking. In carrying out its duties, the Commission may appoint working groups as it deems appropriate, and may solicit participation from relevant subject matter experts, law enforcement, practitioners, and analysts.

Staff support for the Commission will be provided by the Office of the Governor and any other agencies or offices as may be designated by the Governor. An estimated 250 hours of staff time will be required to support the work of the Commission. No direct costs are expected for the work of the Commission.

## **Duties of the Commission**

The Commission will be responsible for coordinating with the Secretary of Public Safety, the Secretary of Education, the Secretary of Labor, the Office of Attorney General, as well as the State Coordinator and any other federal, state, local, or private sector entity to accomplish the following goals:

1. Increase enforcement by:
  - a. Coordinating with state and local law enforcement, Commonwealth's Attorneys, and U.S. Attorneys to increase prosecution and seek jail time as opposed to just fines for those who solicit prostitution;
  - b. Increasing targeting of illicit massage businesses by coordinating with local law enforcement, private property owners, regulatory boards, and increasing investigation into tax compliance;
  - c. Collaborating with authorities to ensure social media and technology companies actively fight trafficking on their platforms;
  - d. Ensuring all law enforcement officers are thoroughly trained in identifying trafficking cases and protocols for working with victims;
2. Empower survivors by:
  - a. Partnering with nonprofits and the private sector to increase the provision of resources survivors need for mental and behavioral recovery and wellness;
  - b. Fostering public private partnerships to educate, train, and empower survivors towards a career path;

- c. Fostering public private partnerships to assist victims in securing temporary and long-term housing options.
- 3. Enhance education by:
  - a. Increasing awareness of the signs of potential trafficking and appropriate ways to intervene, including for teachers and school officials;
  - b. Requiring schools to provide online safety training and education;
  - c. Expanding awareness of the National Trafficking Hotline and other resources for victims to report and receive assistance to escape trafficking.

The Commission and its subgroups will meet upon the call of the Chair(s) and will issue an interim report with its findings and recommendations no later than September 1, 2022, and any additional reports and recommendations as necessary or as requested by the Governor. This report may also include a proposed framework for the continuation of the Commission’s work. The Commission’s findings and recommendations will be distributed to promote best practices across the Commonwealth.

**Effective Date of the Executive Order**

This Executive Order shall be effective upon signing and shall remain in full force and effect for one year from its signing, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 15<sup>th</sup> day of January, 2022.



A handwritten signature in black ink, appearing to read "Glenn Youngkin".

\_\_\_\_\_  
Glenn Youngkin, Governor

Attest:

A handwritten signature in black ink, appearing to read "Kelly Thomasson".

\_\_\_\_\_  
Kelly Thomasson, Secretary of the Commonwealth

**Cathy Hanchey**

---

**From:** FSMTB <dpersinger@fsmtb.org> on behalf of FSMTB  
**Sent:** Monday, August 1, 2022 2:01 PM  
**To:** massagetherapy@dhp.virginia.gov  
**Subject:** IN THIS ISSUE: Interstate Massage Compact, Annual Meeting Information, and more!

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# In Touch With FSMTB

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**AUGUST 2022**

## **IMpact - Interstate Massage Compact - Stakeholder Review Underway**



The draft legislation for IMpact, the Interstate Massage Compact, is available for review and stakeholder input. The Council of State Governments (CSG) is hosting weekly meetings to review the legislation and answer questions. Visit <https://compacts.csg.org/compact-updates/massage-therapy/> to read the draft, sign up for a review session, and submit

feedback.

Please share this information with your board members, LMTs/licensees, massage educators and schools.

We especially encourage input from the massage board regulatory community. As you contemplate and formulate your feedback, FSMTB is hosting an online session with CSG, dedicated specifically for massage board regulators. This session is scheduled for **Wednesday, August 17, 12 pm CT.**

**REGISTER**

We appreciate your participation in the development of the Interstate Massage Compact.

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**2022-23 Membership Renewal Reminder**

FSMTB membership renewal invoices for 2022-23 have been distributed via email to board staff. We appreciate prompt renewal by **September 19, 2022**, to ensure that your board/agency is represented and eligible to vote at the Annual Meeting, October 18-22 in Charlotte, North Carolina. If you need a duplicate renewal invoice, please contact FSMTB at [info@fsmtb.org](mailto:info@fsmtb.org).

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## Registration Now Open for the 2022 Annual Meeting

Member and Nonmember registration is now open for the FSMTB Annual Meeting in Charlotte, North Carolina on **October 18- 20, 2022**. Please be sure to select your board's voting delegate for the Annual Meeting.

For more information on the Annual Meeting, click [HERE](#).



[REGISTER](#)

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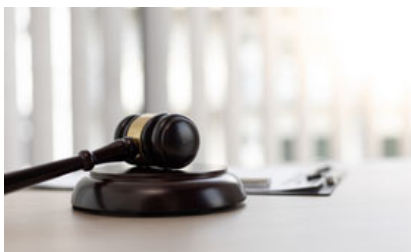
## Call for Nominations

Preparations are underway for the Annual Meeting of the Delegate Assembly in October, in Charlotte, North Carolina where elections to the Board of Directors and Nominating Committee will be held. If you wish to be considered or nominate anyone for election, those submissions are due **August 17, 2022**.

Further details on eligibility criteria, the process, and forms for submission can be found here: <https://www.fsmtb.org/member-boardsagencies/member-services/annual-meeting/2022-annual-meeting/nominations/>

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## Call for Resolutions and Bylaw Amendments Has Closed



If your board missed this year's deadline to propose Resolutions or Bylaw Amendments, it is never too early to begin preparing for next year. Information on the process and forms for submission of proposals can be found [HERE](#). The current version of the FSMTB Bylaws can be found [HERE](#).

[Resolution Policy](#)  
[Resolution Form](#)

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## Virtual Membership Event Series - August 10

## Beyond Board Basics: Regulatory Operations – Part 2 Wednesday, August 10, 2022

1:00 pm ET/12:00 pm CT/11:00 am MT/10:00 am PT

Dale J. Atkinson, of The Atkinson Firm and general counsel to FSMTB, will continue the discussion from last month on the basics of regulatory board operations. Part 2 will focus board/agency external relations and issues and legal concerns regarding running effective board meetings and hearings, use of executive session, responding to public records requests, communications protocols, and website presence.

[REGISTER](#)

**SAVE THE DATE** for the next event on **Wednesday, September 14, 2022:**  
**2022 Massage Regulation Overview: Highlights and Challenges**

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### New Format for Jurisdictional Reports

The Jurisdictional Reports sent to your board/agency with candidate MBLEx results have a new format. If you or the staff member who receives these reports have any questions, please call School Support at 913-681-0380 or email [schoolsupport@fsmtb.org](mailto:schoolsupport@fsmtb.org).

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### FARB Regulatory Law Seminar – September 29 – October 1, 2022

As a Governing Member of the Federation of Associations of Regulatory Boards (FARB), FSMTB is pleased to share an important educational opportunity with you. The RLS is always interactive and will provide an unparalleled opportunity to network with members of the regulatory community across jurisdictions and professions. We encourage you, your board members, and especially your board counsel to attend the 2022 FARB Regulatory Law Seminar in Reston, Virginia.



Please click [HERE](#) for meeting information.

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### How Can FSMTB Support Your Board/Agency?



FSMTB Government Relations staff is here for legislative support, research, and education on massage therapy regulatory matters. FSMTB can provide policy information and best practices from a national perspective to your board/agency or your legislature upon request.

Please do not hesitate to contact the Director of Legal and Regulatory Affairs, Mai Lin Petrine, at [mlpetrine@fsmtb.org](mailto:mlpetrine@fsmtb.org), to request assistance.

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## Important Dates

### Virtual Member Event Series 2022

Interstate Massage Compact (IMpact) [FSMTB Special Review Session](#) - August 17, 2022

Deadline for [Board of Directors and Nominating Committee Nominations](#) - August 17, 2022

Deadline to Register for [Annual Meeting](#) - September 19, 2022

[FSMTB Annual Meeting](#) - October 18-20, 2022, Charlotte, NC

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*The mission of FSMTB is to support its member boards in their work to ensure that the practice of massage therapy is provided to the public safely and competently.*

STAY CONNECTED



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**From:** FSMTB <dpersinger@fsmtb.org> on behalf of FSMTB  
**Sent:** Monday, February 21, 2022 2:00 PM  
**To:** massagetherapy@dhp.virginia.gov  
**Subject:** FSMTB INITIATES LITIGATION TO PROTECT THE INTEGRITY OF THE MBLEx®



**Contact:** Debra Persinger, PhD  
Executive Director, FSMTB  
[dpersinger@fsmtb.org](mailto:dpersinger@fsmtb.org)/913.681.0380  
**FOR IMMEDIATE RELEASE:** February 21, 2022

**FSMTB INITIATES LITIGATION TO PROTECT THE INTEGRITY OF THE MBLEx®**

OVERLAND PARK, Kansas – February 21, 2022 – The Federation of State Massage Therapy Boards (FSMTB) has initiated litigation in the United States District Court for the Southern District of Texas against Footy Rooty Development, Inc. D/B/A Footy Rooty Institute Houston, its officers, and other participating parties. The litigation was initiated by FSMTB, alleging copyright and trade secret infringement related to the intellectual property interests of the Massage & Bodywork Licensing Examination (MBLEx®).

Footy Rooty is a corporation that operates a network of massage training schools. During an investigation of suspected fraudulent testing, the Federation discovered the Defendants’ YouTube channel, containing videos of copyrighted MBLEx® items with the explicit intent of coaching individuals to pass the MBLEx® in a deceitful manner. With this lawsuit, the Federation is seeking to stop the Defendants’ ongoing harvesting and selling of the national licensing exam content.

“The FSMTB continually monitors websites, review courses, and educational programs to protect the integrity of the MBLEx®, the licensure and regulatory processes, as well as the public served through the regulation of the profession,” said Craig Knowles, FSMTB president. “We encourage anyone with knowledge of similar schemes to report the information to FSMTB.”

The Federation develops and administers the national licensing exam, the MBLEx®, that assesses competence in massage and bodywork in the United States and its territories. MBLEx® results are used by licensing agencies in 44 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and some cities in unregulated states.

FSMTB intends to vigorously pursue persons and entities found to violate the legal rights of the Federation. Questions regarding this litigation should be directed to the FSMTB Executive Director.

**About FSMTB**

*Established in 2005, the Federation of State Massage Therapy Boards (FSMTB) is an autonomous, 501(c)(3) not-for-profit organization comprised of state regulatory boards and agencies that regulate the massage therapy profession. All revenue collected by the organization is used to enhance FSMTB programs, maintain and improve the quality of the Massage & Bodywork Licensing Examination (MBLEx<sup>®</sup>) and provide support to FSMTB Member Boards in fulfilling their responsibility of protecting the public. For more information, please visit [www.fsmtb.org](http://www.fsmtb.org).*

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**STAY CONNECTED**

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