State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

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

DAR file no:	40000	Date filed:	12/22/2015
State Admin Rule Filing Id:		Time filed:	

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

1. **Agency:** Commerce/Division of Occupational and Professional Licensing

Room no.:

Building: Heber M. Wells Building

Street address 1: 160 East 300 South

Street address 2:

City, state, zip: Salt Lake City UT 84111-2316

Mailing address 1: PO Box 146741

Mailing address 2:

City, state, zip: Salt Lake City UT 84114-6741

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Allyson Pettley	801-530-6179	801-530-6511	apettley@utah.gov

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

2. **Title of rule or section** (catchline):

Massage Therapy Practice Act Rule

3. **Type of notice:**

New ___; Amendment XXXX; Repeal ___; Repeal and Reenact ___

4. **Purpose of the rule or reason for the change:**

The Division and the Board of Massage Therapy determined an amendment is needed to address applicants who meet the required 600 education hours, but are deficient in one or more of the required curriculum categories. Additional amendments are needed: (1) to reflect current exam requirements and; (2) to standardize the length of licensed experience for applicants who: (a) complete education in the United States but not in Utah; and (b) complete foreign education; and (c) complete an apprenticeship in the United States but not in Utah. An amendment is needed for a more consistent method to substantiate licensed experience. Massage therapists typically do not work regular hours or have the same service charges; therefore, it is difficult to determine hours worked based on income. Experience is changed from number of hours to years of experience, be it part-time or full-time.

5. **This change is a response to comments from the Administrative Rules Review Committee.**

No XXXX; Yes ___

6. **Summary of the rule or change:**

The existing Subsection R156-47b-302(3) is deleted as obsolete language per the change made to Subsection R156-47b-302b(1). A new Subsection R156-47b-302(3) is added to allow supplemental coursework to be considered when an applicant has completed the required 600 total education hours but has incidental deficiencies in one or more of the required curriculum Subsection R156-47b-302a(1)(a)(iii) amends the minimum experience requirement for an applicant who completed education in the United states but not in Utah from 2,000 hours to three years of licensed experience. Subsection R156-47b-302a(1)(b)(ii) amends the minimum experience requirement for an applicant who completed foreign education from 2,000 hours to three years of licensed experience. Subsection R156-47b-302a(1)(c)(i) amends the out of state apprenticeship program "equivalent" requirement to "substantially equivalent" requirement, as determined by the Division in collaboration with the Board of Massage Therapy. Subsection R156-47b-302a(1)(c)(iii) amends the minimum experience requirement for an applicant who completed an apprenticeship in the Unites States but not in Utah from 4,000 hours to three years of licensed experience. Subsection R156-47b-302b(1) amends the examination requirement to require the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBlex) as the sole examination meeting the examination requirement. The deleted examinations are no longer in existence. Subsection R156-47b-302b(2) is deleted as redundant language. Subsection R156-47b-302b(2) is added to grandfather predecessor exams if the exam was passed during the time the exam was accepted by the Division.

7. **Aggregate anticipated cost or savings to:**

A) State budget:

Affected: No ___; Yes XXXX

The Division will incur minimal costs of approximately $75.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

B) Local government:

Affected: No XXX; Yes ___

The proposed amendments apply only to licensed massage therapists and massage apprentices and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

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

Affected: No ___; Yes XXX

The proposed amendments will potentially affect licensed massage therapists who are generally self-employed, leasing space, or employed by a company. The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retaking the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii)will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The Division is not able to estimate the aggregate cost savings to small businesses or the public.

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

Affected: No ___; Yes XX

The proposed amendments will potentially affect licensed massage therapists who are generally self-employed, leasing space, or employed by a company. The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retaking the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii)will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The Division is not able to estimate the aggregate cost savings to other businesses or the public.

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

The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retaking the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii)will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The individual impact of such savings cannot be estimated.

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

This filing makes changes to: give the Division and Board discretion to license applicants who have completed the required 600 education hours, but are deficient in one or more of the required curriculum categories; reflect current exam requirements; and determine experience based on years of experience instead of number of hours.

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

Francine A. Giani, Executive Director

10. **This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.**
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Subsection 58-1-106(1)(a) Subsection 58-1-202(1)(a)

Section 58-47b-101

11. **This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB) Content Outline	National Certification Examination for Therapeutic Massage (NCETM) Content Outline
Publisher	National Certification Board for Therapeutic Massage and Bodywork	National Certification Board of Therapeutic Massage and Bodywork
Date Issued		
Issue, or version	January 2010	January 2010
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference	-0-	-0-
Action: Adds, updates, or removes	Deletes	Deletes

(If this rule incorporates more than two items by reference, please attach additional pages)

12. **The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 02/16/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	**At** (hh:mm AM/PM):	**At** (place):
01/19/2016	9:00 AM	160 East 300 South, Conference Room 474 (4th floor), Salt Lake City, Utah

13. **This rule change may become effective on** (mm/dd/yyyy): 02/23/2016

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

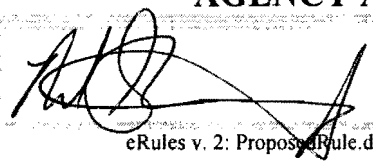
14. **Indexing information -- keywords** (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:

licensing	massage therapy
massage therapist	massage apprentice

15. **Attach an RTF document containing the text of this rule change** (filename): R156-47b.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title: 

Date (mm/dd/yyyy): 12/22/2015

R156. Commerce, Occupational and Professional Licensing.
R156-47b. Massage Therapy Practice Act Rule.
R156-47b-302. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards.

In accordance with Subsection 58-47b-302(2)(e)(i)(A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the [~~following~~]standards set forth in this section.[~~:~~]

(1) Curricula shall:

(a) be registered with the Utah Department of Commerce, Division of Consumer Protection; or

(b) be registered with an accrediting agency recognized by the United States Department of Education.

(2) Curricula shall be a minimum of 600 hours and shall include the following:

(a) anatomy, physiology and kinesiology - 125 hours;

(b) pathology - 40 hours;

(c) massage theory, massage techniques including the five basic Swedish massage strokes, and hands on instruction - 285 hours;

(d) professional standards, ethics and business practices - 35 hours;

(e) sanitation and universal precautions including CPR and first aid - 15 hours;

(f) clinic - 100 hours; and

(g) other related massage subjects as approved by the Division in collaboration with the Board.

(3) [~~In addition to the curriculum requirements of Subsection R156-47b-302a(2), new curricula shall include the major content areas, but are not required to meet the percentage weights of the National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB) Content Outline, published January 2010, and the National Certification Examination for Therapeutic Massage (NCETM) Content Outline, published January 2010 which are adopted and incorporated by reference.~~]The Division, in collaboration with the Board, may consider supplemental coursework of an applicant who has completed the minimum 600 curricula hours, but has incidental deficiencies in one or more of the categories specified in R156-47b-302(2)(a) through (f).

R156-47b-302a. Qualifications for Licensure - Equivalent Education and Training.

(1) In accordance with Subsection 58-47b-302(2)(e)(i)(B), an applicant who completes equivalent education and training must provide documentation of:

(a)(i) graduation from a licensed or recognized school outside the state of Utah with a minimum of 500 hours;

(ii) completion of the examination requirements; and

(iii) practice as a licensed massage therapist for a minimum of [~~2,000 hours~~]three years; or

(b)(i) foreign education and training approval by:

(A) Josef Silny & Associates, Inc.;

(B) International Education Consultants; or

(C) Educational Credential Evaluators, Inc.; and

(ii) practice as a licensed massage therapist for a minimum of [~~2,000 hours~~]three years; or

(c)(i) completion of an [~~equivalent~~]apprenticeship program outside the state of Utah, deemed substantially equivalent as determined by the Division, in collaboration with the Board of Massage Therapy;

(ii) completion of the examination requirements; and

(iii) practice as a licensed massage therapist for a minimum of [~~4,000 hours~~]three years.

(2) Hours of supervised training while licensed as a massage therapy apprentice trained in accordance with Subsection R156-47b-302c(5) may not be used to satisfy any of the required minimum of 600 hours of school instruction specified in Section R156-47b-302(2).

(3) Hours of instruction or training obtained while enrolled in a school of massage having a curriculum meeting the standards in accordance with Section R156-47b-302(2) may not be used to satisfy the required minimum of 1,000 hours of supervised apprenticeship training specified in Subsection R156-47b-302c(5).

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

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

(1) Applicants for licensure as a massage therapist shall pass [~~one of the following examinations:~~

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

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

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

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

(2) [~~Applicants for licensure as a massage therapist who have completed a "Utah Massage Apprenticeship" shall pass the FSMTB MBLEx.~~]Predecessor exams shall be accepted if the exam was passed during the time the exam was accepted by the Division.

KEY: licensing, massage therapy, massage therapist, massage apprentice
Date of Enactment or Last Substantive Amendment: [~~May 28, 2015~~]2016
Notice of Continuation: May 1, 2012
Authorizing, Implemented, or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101