



July 14, 2008

Albert Hawkins, Executive Commissioner
Texas Health & Human Services
Brown-Heatly Building
4900 N. Lamar Blvd.
Austin, TX 78751-2316

Dear Commissioner Hawkins,

I am the President of the Texas Association of Massage School Owners. This organization testified for HB 2644 in the 80th Legislature. Unfortunately, the Department of State Health Services staff is proposing rules contrary to what was the legislative intent for HB 2644. Specifically, legislative intent with respect to 1) testing requirements for persons seeking licensure for massage therapy and 2) hours of education that may be offered by massage therapy schools. This lack of clarity is evidenced by the proposed rules which have been forwarded to your office by the DSHS Council.

First, it was not the intent of HB 2644 to require candidates for massage therapy licensure to take a “national” exam. The statute is clear – “the department shall prepare and administer a state examination”. In addition, requirements for licensure that are set forth in HB 2644 include the requirement of the candidate to “pass the state written examination.” There is no ambiguity in this language, but somehow, DSHS staff perceives that the words “state” and “national” have the same meaning.

Second, I would like to clarify that the intent of HB 2644 was to allow licensed massage schools to offer programs that would enable the student to gain as much licensing reciprocity as possible, recognizing the diverseness of massage education nationwide. This includes offering but not requiring more hours of education in any core subject, including internship, than what is minimally required for licensure. It was not the intent of HB 2644 to limit schools to teaching just the minimum requirements, nor was it the intent to require schools to become accredited or to require additional approvals, as is being proposed by staff, in order for schools to offer programs beyond the minimum requirements.

The proposed rules related to the two issues above will have a major adverse impact on the health of the public and the entire massage therapy community for a long time to come. DSHS staff, including General Counsel, is wrong with respect to its assertion that the proposals are in keeping with the Occupations Code Chapter 455 and HB 2644. I am prepared to present you with the evidence necessary, if given the opportunity, to show you that we in the industry have this one right.

It is our hope that you would return the proposed rules to DSHS staff with the purpose of modifying the proposal to reflect legislative intent of HB 2644, to satisfy the mandates in the Occupations Code Chapter 455, and to include the overwhelming stakeholder input from, massage therapy clients, massage therapy students and massage therapy schools.

If I may be of any further assistance during the rule making process, please do not hesitate to call.

Most Respectfully,

Raul S Flores
(210)383-1401

rflores@academyformassage.com

President, Texas Association of Massage School Owners