

On Rule Making from the Board Website (bmbt.org):

Regulatory Overview

The [Massage and Bodywork Therapy Practice Act](#) was enacted by the North Carolina General Assembly and signed into law on November 8, 1998 by Governor James B. Hunt, Jr. This established the legal requirement for licensure of practitioners, created the Board, and set forth the essential provisions needed to carry out this new process. This Practice Act is now part of the [North Carolina General Statutes](#), that contain all State laws.

The seven-member Board of Massage & Bodywork Therapy (Board) began meeting monthly in April 1999 to establish the new occupational licensing agency. One of the Board's primary jobs has been to develop the [Rules](#), that provide details of the regulatory structure. The scope of the Rules is determined by the specific language of the Practice Act, since the Board may not exceed the authority granted it by the General Assembly.

Rule making is tightly defined by law. Please refer to the Board document, [Information on the Rule Making Process](#), for an outline of the procedures all governmental agencies in North Carolina must follow in amending current rules or adopting new rules.

In addition to the Rules, the Board has also developed a set of [Guidelines](#) that serve as a policy manual to assist the Board and its staff in its daily operations.

Once the Board issues licenses to massage and bodywork therapists, the Board is responsible for ensuring that licensees uphold their legal requirements and that the public is protected. The Board's disciplinary procedure (defined in [Rules](#) Section .0900) allows the Board to investigate alleged violations of the statutes and rules and to discipline those found to be in violation. For additional information, click [Summary of Procedure for Disciplinary Hearing](#) and [List of Civil Penalties](#).

The Rule Making Process

Definitions, Agencies and Official Publications

The Administrative Procedure Act, Chapter 150B of the North Carolina General Statutes (statutes), sets forth the requirements for adoption of rules, publication of rules and administrative hearings. As defined in G.S. § 150B-2:

"Occupational licensing agency" means any board or commission of the State of North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within a particular profession, and which is authorized to issue and revoke licenses.

"Rule" means any agency regulation, standard or statement of general applicability that implements or interprets an enactment of the General Assembly (meaning the statutes).

There are a number of entities and publications which are part of the rule making process:

The North Carolina Board of Massage & Bodywork Therapy (Board) is an occupational licensing agency created by G.S. § 90-625 and given specific powers and duties under G.S. § 90-626. The Board consists of seven appointed members, as well as various staff members and consultants, including legal counsel which must be hired by the Board. G.S. § 90-626(9) directs the Board to: adopt, amend or repeal any rules necessary to carry out the purposes of this Article. The Board is part of the Executive Branch, but operates autonomously.

The North Carolina Administrative Code (NCAC, or Code) contains the rules of all boards, commissions and agencies in the state. All rules are based on specific authority granted by the General Assembly, through the North Carolina General Statutes. Our rules will be housed under Title 21 NCAC Chapter 30. Title 21 is the section which deals with all occupational licensing

boards; Chapter 30 is designated for the Board of Massage & Bodywork Therapy.

The North Carolina Register (Register) is the official state record of notices of rule-making proceedings, the text of proposed rules, text of permanent rules once approved, executive orders of the Governor, etc.

The Rules Review Commission (RRC), part of the Executive Branch, consists of 10 members appointed by the General Assembly, plus staff. The RRC meets on the third Thursday of the month. They review proposed rules which are submitted to them by boards and commissions and approve such rules if all criteria are met.

The Office of Administrative Hearings, part of the Judicial Branch, receives the recommendations of the RRC and determines if the proposed rules meet the criteria set forth in Title 26 NCAC, Subchapter 02C. The head of this agency is the Chief Administrative Law Judge, designated by G.S. § 150B-2 as the Codifier of Rules (**Codifier**). This governmental agent is responsible for maintaining the North Carolina Administrative Code and publishing the North Carolina Register. Also within this agency is the Rules Division, which manages the details of this work.

The Joint Legislative Administrative Procedures Oversight Committee (APO) is part of the General Assembly (Legislative Branch) consisting of 8 House and 8 Senate members. The APO committee meets during regular session of the General Assembly, reviews the reports from the RRC and Codifier, and gives final approval to rules.

All three branches of government are involved in this process of adopting, amending or repealing rules. The process is there to protect those who are regulated by these rules, to give them adequate opportunity to make comment on proposed rules, and

to set forth a procedure for appeal through administrative hearing.

The Rule Making Process

This is an outline of steps in the rule making process. The official language is found in the Administrative Procedure Act. According to the RRC, this full procedure may take anywhere from 6 to 24 months to complete.

1. The Board may draft a new rule, propose a change to an existing rule, or propose the repeal of a rule. The RRC may provide an informal preliminary review of a new draft rule, but it does not have authority to approve temporary rules.
2. The Board brings up the rule change for discussion at a regular meeting.
3. Once discussion is complete, and any changes are made, the Board may adopt the change as a **Temporary Rule**, which is then sent to the Codifier for review and approval.
4. After this approval is received, the Temporary Rule is published in the Register, but the Board may not utilize the rule.
5. Following the publication of a Temporary Rule, the Board has up to 270 days to adopt it as a **Permanent Rule**. This involves the following steps:
 - a) The Board publishes a Notice of Rule-Making Proceedings in the Register, to inform the public that the process of establishing a Permanent Rule is beginning. This notice is an overview, providing a short explanation of the reason for the proposed rule and a citation of the relevant statutes. After publication, there is a **60-day public written comment period**.

- b) After the 60-day comment period, the Board publishes a Notice of Proposed Text in the Register. This includes the complete text of the proposed Permanent Rule.
 - c) The Board schedules a **Public Hearing** and publishes notice of its date, time and location in the Register. The Board is only required to hold one hearing, but may choose to hold more at its discretion. The hearing must occur at least 15 days after publication of notice in the Register.
 - d) After the Notice of Proposed Text is published, the Board opens a **second written comment period, consisting of at least 30 days**, or until the day of the Public Hearing, whichever is longer.
 - e) Following the comment period and the Public Hearing, and taking into consideration all written and oral comments received from interested parties, the Board may adopt a Permanent Rule.
6. The Board then submits the Permanent Rule to the Rules Review Commission for approval. Rules must be received by the RRC by the 20th of the month for consideration at the following month's meeting. The RRC may reject the proposed rule for any of these reasons:
- a) lack of statutory authority
 - b) unclear or ambiguous language
 - c) the rule is not reasonably necessary

The Board has the opportunity to revise a rejected rule without holding another comment period or public hearing.

7. If the RRC approves the rules, they are sent to the Codifier of Rules and held for publication, pending legislative approval.

8. The RRC also sends a report to the General Assembly. This report must be received at least 25 days before the start of a legislative session, in order to be considered by the Joint

Legislative Administrative Procedures Oversight Committee in that year's session. The rules automatically become effective on the 31st day of that legislative session if the APO committee takes no action on the report (essentially a passive form of approval).

9. Once approved by the General Assembly, the Codifier publishes the permanent rules in the Register.

10. Following this final step, the Board may utilize the new rule.

Other considerations:

A Temporary Rule adopted by the Board expires in 270 days unless the Permanent Rule is submitted to the RRC for consideration.

The Board must maintain a mailing list of people who have requested notice of rule making, and must send them such notice.