

BEFORE THE IOWA MASSAGE THERAPY BOARD

<p>IN THE MATTER OF THE PETITION FOR WAIVER BY:</p> <p>MICHELLE SELLAND,</p> <p>Petitioner.</p>	<p style="text-align: center;">ORDER DENYING WAIVER</p>
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Pursuant to Iowa Code Section 17A.9A and Iowa Administrative Code section 481 chapter 821, the Iowa Board of Massage Therapy (“Board”) makes the following ruling on the Petition for Waiver submitted by Michelle Selland (“Petitioner”).

FACTS AND COURSE OF PROCEEDINGS

1. Petitioner seeks reinstatement of her massage therapy licensure.
2. In 2011, the State of Iowa issued Petitioner a license to practice massage.
3. Petitioner is licensed to practice in massage in Wisconsin, and practiced massage in Wisconsin for approximately twenty (20) years.
4. In 2022, Petitioner stopped practicing massage, and has not practiced massage in another jurisdiction for the two (2) years immediately prior to submitting the application for waiver, nor has she taken any of the following examinations within two (2) years of submitting her application for reactivation: The National Certification Examination for Therapeutic Massage, The National Certification Examination for Therapeutic Massage and Bodywork, The National Examination for States Licensing, or The Massage and Bodywork Licensing Examination as required by Iowa Administrative Code section 481-821.9(2)(b)(2).
5. On November 13, 2024, Petitioner filed a Petition for Waiver with the Board, seeking a waiver due to undue hardship from the practice or examination requirements of Iowa Administrative Code Section 481-821.9(2)(b)(2).

SUMMARY OF LAW

6. Pursuant to Iowa Administrative Code section 481-chapter 6 (*see also* Iowa Code section 17A.9A), the Board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the Board finds, based on clear and convincing evidence, all of the following:
 - a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
 - b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
 - c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
 - d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.
7. “The burden of persuasion rests with the [Petitioner] for the waiver of a rule.” Iowa Code section 17A.9A and Iowa Administrative Code § 481-6.11(2).

PETITIONER HAS NOT MET THE CRITERIA TO WAIVE RULE 481-821.9(2)(b)(2)

8. Upon review of the Petition, the Board finds that Petitioner has not satisfied all of the four criteria for waiver of the examination requirement in rule 481-821.9(2)(b)(2), specifically that no undue hardship exists.
9. Petitioner does not state a hardship in Petitioner’s application, and simply states that her current employment requires an Iowa license to practice massage, as Petitioner’s job requires Petitioner travel to Iowa communities to provide massage to hospice patients.
10. The Board finds the experience and exam requirements to be imperative in the protection of the public. Petitioner has not shown by clear and convincing evidence that an undue hardship exists in the requirement that Petitioner either have two (2) years of active, licensed practice in another jurisdiction, or that Petitioner be required to pass a national exam within two (2) years of the request for waiver. The Board therefore denies Petitioner’s request for waiver in reactivation of Petitioner’s license to practice massage therapy.

ORDER

IT IS THEREFORE ORDERED the Petition for Waiver of subrule 481-821.9(2)(b)(2).
is hereby **DENIED**.

Issued February 10, 2025

A handwritten signature in black ink that reads "LeAnn Stevens". The signature is written in a cursive style with a large, looping flourish over the "n" in "Stevens".

LeAnn Stevens, Chair
Iowa Massage Therapy Board