

# **Nevada State Board of Massage Therapy**

## **Public Records Request Policy and Procedure**

### **1. Purpose/Mission/Scope**

To establish a process for responding to public records requests made to the Nevada State Board of Massage Therapy (NSBMT).

### **2. Records Official/Custodian**

The records official for the NSBMT is the Executive Director of the Board. The Executive Director may designate an assistant to help log and respond to public records requests.

All records requests received by the NSBMT should be forwarded immediately to the records official. The records official will then work with staff to determine the timeline for the NSBMT response as well as the content of the response. Legal counsel may be consulted as well as the Attorney General's Office for clarification and compliance. In handling the records request, the records official shall follow the procedure outlined below in Section 3.

### **3. Procedures**

The public records official will log each public records request in the Nevada State Board of Massage Therapy Records Request Log. The records official shall acknowledge receipt of the request in writing. If the request is received by email, this acknowledgement also may be sent by email.

The records official will ensure that, within five (5) business days from receipt of the request, one of the following occurs:

- (a) The requester inspects the record(s) or receives copies of the record(s), as requested;
- (b) If NSBMT does not have legal custody of the record, written notice of that fact and the name and address of the governmental entity that has legal custody of the record, if known, is provided to the requester;
- (c) If the record has been destroyed pursuant to the State's records retention schedule, written notice of that fact is provided to the requester;
- (d) If the NSBMT is unable to provide the record by the end of the fifth business day after the request is received, written notice of that fact and a date and time after which the record will be available for the person to inspect or copy is provided to the requester; or
- (e) If the request must be denied because the record is confidential, written notice of that fact and a citation to the specific statute or other legal authority that makes the record confidential is provided to the requester.

The public records official shall inform the requestor in advance, of the volume or list of records encompassing the request and the potential cost to provide the records if applicable. Copies of records shall be furnished upon payment of associated fees. The requestor is to be advised that reproduced materials will be held for fourteen (14) days and subsequently destroyed if not claimed. If the cost of reproduction exceeds \$25, the requestor is to be advised that advance payment in full will be required to process the request(s).

#### **Extraordinary Requests**

When the public records official reviews a public record request, the public records official will determine whether the request will require significant use of personnel or resources to produce and be designated as an Extraordinary Public Records Request. Such a request may apply to individual or multiple documents. Fees may be imposed in accordance with NRS 239.055. The public records official will advise the requestor if the cost of the request exceeds \$25 and that payment in full of the minimum estimated amount will be required to process the request. The amount deposited by the requestor shall include the estimated manpower costs to retrieve or reproduce the record(s) and the estimated material charges to retrieve or reproduce the record(s). Data requests for electronic databases, electronic records or services that are value-added products and beyond the normal scope of the office's workload will be provided as the appropriate resources are available to fulfill the request depending upon the circumstances of the request.

#### **4. Fees**

The requestor is responsible for the staff time incurred, which is due and payable before processing of the records will begin. Fees for staff time are in addition to fees for copying. Estimates of costs will be provided in advance if the costs are projected to exceed \$25.

**Staff time** (for reviewing, redacting, copying or otherwise processing records requests) shall be billed as follows:

- (a) \$18 per hour for file clerk or administrative assistant
- (b) \$27 per hour for Executive Assistant or Inspector
- (c) \$30 per hour for Investigator
- (d) \$40 per hour for Executive Director

#### **Copy Fees:**

- (a) Black and white copies, up to 8.5" x 14" - \$0.06 per page
- (b) Color copies, up to 8.5" x 14" - \$0.27 per page
- (c) Compact Disc/DVD - \$5 per disc
- (d) Thumb Drive - \$10 per drive
- (e) Certified true copies - \$5 per page

**Court reporter transcripts** – In addition to the actual cost of the medium in which the copy of the transcript is provided, the fee charged for a copy of each page of a court reporter transcript is the fee per page set forth in the contract between the NSBMT and the court reporter (see NRS 239.053).

**Postage** – The requestor is responsible for estimated postage.

**Payment** – Payment may only be made by money order made out to the “Nevada State Board of Massage Therapy

” or by credit card.

**Fee Cap** – The fees charged for staff time for extraordinary requests may not exceed \$0.50 per page. After calculating the staff time incurred, if it exceeds \$0.50 per page it will be reduced to equal \$0.50 per page.

#### **5. General Policies for Processing Public Records Requests**

All public records, unless declared by law to be confidential, will be open at all times during office hours to inspection by any person, and may be copied. Original public records must not be removed from NSBMT offices during inspection by members of the public and must be monitored by an employee while any review is being conducted. If a record contains information deemed confidential, a request to inspect or copy the record will not be denied if the confidential information can be redacted, deleted, concealed or separated from the record, so the remainder of the record can be inspected or copied.

Fees for inspection and copies of public records are outlined in Section 4 above. Public records must be provided in any medium in which they are readily available. The custodian of the record shall not refuse to provide a copy of the record in a readily available medium because he/she has already prepared or would prefer to provide the copy in a different medium.

Public Records Requests will be responded to no later than the end of the fifth business day after the date on which the request is received by the NSBMT. The response may include an estimate of the time it will require to provide access or a copy.

If the public records official has any questions concerning inspection or reproduction of a requested document, he or she may consult with legal counsel or the Office of the Attorney General for clarity including if the item requested is actually a public record; available for review and reproduction; the item requested is a public record which some special legal considerations might dictate should not be made available for inspection and reproduction; and if a legal balancing test is to be performed, the requestor should be informed and then notified as soon as a decision has been made.

Copyrighted materials may be duplicated without risk of infringement when reproduction is for the specific purpose of; “criticism, comment, news reporting, teaching, scholarship, or research” (17 U.S.C.A. Sec. 107). When the public records official is aware that some other use is intended, consultation with

legal counsel and/or the Deputy Attorney General assigned to the agency may be necessary to insure there is no infringement by reproduction of copyrighted material.

Confidential records of federal, state, and local governments shared with the NSBMT will not be disclosed without prior written authorization from that government agency. Further, mere possession of records or information may not mean that the NSBMT has legal custody or control over those records (see NAC 239.041).

Telephone numbers and/or email addresses maintained in a database by the NSBMT for the purpose of and/or in the course of the person's communications with the NSBMT are confidential and are not deemed a public book or records (see NRS 239B.040).

Approved by:  Date: August 4, 2017