

# A Massage Therapist Can Rehabilitate One's Client and Case

On any day, providing relaxation would assumably help both counsel and client alike during their prosecution of a stressful injury case. The pressures that result from suffering a traumatic injury may make a tranquil massage sound like Nirvana. Anxiety accompanies injury. There is pain. There is suffering. The client's life is disrupted. Financial strains surface. This reverberates. Family relations

are strained, along with employer relations and friendships. Frustrations accrue when a person is thrown into the medical and legal systems. These pressures can be, and often are, overwhelming. Justification for therapeutic massage undoubtedly exists given these realities. A licensed massage therapist, however, can do more than simply provide a soothing, temporal escape for the patient; this expert can benefit both the patient's rehabilitation, as well as his or her case.



By Timothy  
D. Lange

## The Health Benefits of Therapeutic Massage are Myriad

Massage has been long claimed to reduce stress, induce relaxation and help in controlling pain.<sup>1</sup> This is true in post-operative and general rehabilitative settings.<sup>2</sup> Therapeutic massage can treat, and based upon both research and personal experience,<sup>3</sup> rehabilitate injured tissues. In some instances, deep tissue massage can alleviate spasm, loosen adhesions, and improve circulation and blood flow. According to the Kentucky Board of Licensure for Massage Therapists, goals for massage therapy include:

- Maintaining health
- Providing relaxation

- Preserving or increasing functional capacity
- Diminishing soft tissue pain arising from stress, anxiety, adhesions, and overuses, and
- Providing treatment that is professionally appropriate for the client.<sup>4</sup>

## This Expert Can Identify, Document and Present Evidence of Injury

Besides providing therapeutic benefit to one's client, this therapist has the potential of offering valuable assistance in documenting and explaining objective findings substantiating the client's claims. This is especially true in relation to the soft tissue injury case, where such intensive therapy will often uncover symptoms of injury that are sometimes overlooked, undocumented, or neglected. This professional can record and report upon important and often overlooked evidence of injuries such as muscle spasm, scar tissue, tissue adhesions and other physiologic malfunctioning.

Records of massage therapy are required to be kept as a condition of licensure in Kentucky.<sup>5</sup> Reports may be made to referring physicians or medical providers and provide an excellent source of valuable, hands-on objective findings and supporting testimony for the injured client. These practitioners also have significant training in physiology, anatomy and pathology.<sup>6</sup> You may find this person has more time and energy to assist you at trial in explaining a client's treatment and injuries to your jury. Very busy physicians are often unable or unwilling to take the time to provide teaching depositions for their patients—though their opinions on causation will likely still be required. An energetic massage therapist may provide an important service to your case, however, by appearing personally at trial, as opposed to the physician on video. This expert can take the time to work through his or her records of treatment, attendant detailed findings and utilize exhibits demonstrating the particularities of the injury and anatomy involved.

**Tim Lange, a Contributing Club member, is a partner with Benson, Byrne, Risch, Siemens & Lange, LLP in Louisville. He practices primarily personal injury and business law and litigation. He may be reached at (502) 583-8373 or [tlange@timlange.com](mailto:tlange@timlange.com).**

## Health and Automobile Insurance Coverage May Cover Massage Services

As to the cost of treatment, massage therapy is at least partially covered by a majority of HMO plans recently surveyed.<sup>7</sup> Some plans will cover services subject to a deductible, while others may have a companion benefit providing a discount for services to members. In the case of automobile related-injuries, massage therapy is defined as a healing art for which Basic Reparations Benefits may be available in Kentucky. Reasonable and necessary charges for therapeutic massage services rendered by a licensed massage therapist can be covered as a loss payable under KRS 304.39-020(5)(A).<sup>8</sup>

Referrals to the massage therapist in the context of the injury practice may best be made through the client's care providers, as opposed to counsel. These practitioners frequently work in conjunction with physical therapists, orthopedists and chiropractors. Use KATA's ListServ to network and discover helpful information about any expert used in the presentation of the case to the jury. In the context of the massage therapist, there is potential for claims relating to alternative therapies perhaps not widely accepted in the medical community that could lead to a *Daubert* challenge or simply be difficult to explain or defend at trial. As always in the selection of an appropriate expert for use at trial or otherwise, be advised to seek references from fellow KATA members or other counsel having previously worked with the expert. Request references and background information on any expert with whom you are interested in working. Confirm the pertinent schedule of fees and document terms concerning payment and billing before engagement. Clearly convey your case timetables with

respect to discovery and trial, and leave ample time for the scheduling and preparation of this expert for his or her discovery and trial depositions. Remember, experts can make or break your case. Choose wisely!

1. Pain Management Nursing, June 2004, Vol. 5, No. 2., pp 59-65.
2. Ramnarine-Singh S (1999). "The surgical significance of therapeutic touch." [Review] [52 refs]. AORN Journal, 69, 358 - 369; "Touch therapies for pain management and stress reduction." Resnick, Robert J (Ed), Rozensky, Ronald H (Ed), et al. (1996) Health psychology through the life span: Practice and rese, 313-321). Washington, DC, USA, American.
3. Special thanks go to Charlie Watson and Lori Bond of Advanced Massage Therapeutics, LLC for providing the impetus and some resource material for this submission. Advanced Massage Therapeutics, LLC is both a treatment facility and school for massage therapy certification located in Louisville.
4. 201 KAR 42:010(1).
5. 201 KAR 42:010(2).
6. 500 hours of study, including 100 hours of study in physiology, anatomy or pathology are required for licensure as a massage therapist in Kentucky under KRS 309.363.
7. Americas Health Insurance Plans, 2002 AHIP Survey of Health Insur-

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ance Plans, as quoted by the 2005 American Massage Therapy Association (AMTA) Fact Sheet. Additional Information can be found at the AMTA web site: [www.amtamassage.org](http://www.amtamassage.org).

8. KRS 309.350, et seq., concerns licensure of massage therapists in the Commonwealth.



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