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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIV. Massage Therapists

Chapter 1. General Provisions

§101. General Provisions

A. Under the authority of R.S. 37:3551 et seq., the State Board of Massage Therapy is adopting the following rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapists, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1230 (July 2006).

Chapter 3. Definitions

§301. Incorporation of Definitions

A. The definitions set forth in R.S. 37:3551 et seq., and R.S. 49:951 et seq., are incorporated herein by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1230 (July 2006), LR 39:1767 (July 2013).

Chapter 9. Code of Ethics

§901. Code of Ethics

A. A massage therapist shall:

1. represent their qualifications honestly, including education and professional affiliations, and provide only those services which they are qualified to perform;

2. accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline;

3. acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals;

4. provide therapy only where there is reasonable expectation that it will be advantageous to the client;

5. consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training;

6. conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons;

7. not unjustly discriminate against clients or other ethical health professionals;

8. safeguard the confidentiality of all client information, unless disclosure is required by law, court order, or absolutely necessary for the protection of the public;

9. respect the client's right to therapy with informed and voluntary consent;

10. respect the client's right to refuse, modify, or terminate therapy regardless of prior consent given;

11. exercise the right to refuse to treat any person or part of the body for just and reasonable cause;

12. refrain, under all circumstances, from initiating or engaging in any romantic or sexual conduct, sexual activities, or sexual behavior involving a client, even if the client attempts to pursue a sexual relationship;

13. respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and the client's reasonable expectations of professional behavior. Practitioners will respect the client's autonomy.

B. Every person licensed as a massage therapist shall subscribe to and practice by the code of ethics established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1230 (July 2006), LR 39:1768 (July 2013).

**Chapter 11. Educational
Qualifications**

§1101. Educational Qualifications for Licensure

A. A person desiring to be licensed as a massage therapist must be able to read, write, speak and understand English and shall provide evidence to the board of compliance with the requirements set forth in §1301 of this Part.

B. The person shall also provide evidence of having satisfactorily completed massage therapy studies in a minimum of 500 in-class hours or the equivalent number of credit hours as set forth or required by federal regulations of a supervised course of instruction. The course of instruction must be provided by any proprietary school licensed by the Board of Regents, or appropriate governing body of any state and approved by the Board of Massage Therapy, or a supervised massage therapy course of study offered by a

public entity, community college or technical school regulated by the state of Louisiana that meets the education requirements of this Chapter. In order for an out-of-state course of instruction to be considered acceptable as part of the licensure requirements for the state of Louisiana, the school providing the course of study must be licensed or approved by the state where the school is located at the time the application is submitted or the person must provide written verification from that state that the school was duly licensed or approved at the time the course was taken. The minimum 500 in-class hours shall consist of 325 hours dedicated to the study of massage therapy techniques and clinical practicum-related modalities, 125 hours dedicated to the study of anatomy and physiology, and 50 hours of discretionary related course work including, but not limited to, hydrotherapy, business practices and professional ethics, health and hygiene, and cardiopulmonary resuscitation (CPR) and first aid. If the applicant is submitting an educational transcript from any Louisiana or out-of-state school and the transcript does not allow a determination of in-class or clock hours, the school must submit information necessary to convert credit hours shown on the transcript into class hours to demonstrate that the applicant has met the educational requirements of 500 in-class hours. It is the applicant's responsibility to obtain the necessary information to demonstrate compliance with the educational requirements. An individual with military training and experience will be considered to have completed the educational requirements for this Section when the service member has been awarded a military occupational specialty and performance in that specialty is at a level equal to or exceeding the requirements of this Section.

C. In order to satisfactorily complete course requirements to be eligible for licensure, massage school students must have graduated from the school with passing grades and must have attended at least 90 percent of class hours in each subject matter offered in the supervised course of instruction, as reflected by attendance records taken at the beginning of each class meeting. The Board of Massage Therapy's inspector is authorized to review attendance and course records and to conduct monitoring as spot-site visits, either directly or through a duly authorized designee, to determine whether scheduled classes are being held and whether all students recorded as present are present for the entire class period. If documentation, satisfactory to the Board of Massage Therapy, of student attendance is not maintained by a massage therapy school or if the documentation includes classes that were not held or shows students as present who were not present for the full class period, the Board of Massage Therapy may deny eligibility for state licensure to graduates who attended the school during the period that attendance was not adequately or correctly documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1231 (July 2006), LR 39:1768 (July 2013).

Chapter 12. Instructor Qualifications

§1201. Specific Massage Therapy Technique Instructor Qualifications

A. A person desiring to be approved as a massage therapy instructor of a specific massage therapy technique, clinical practicum-related modality, anatomy, or physiology shall, upon request, submit evidence satisfactory to the Board of Massage Therapy that the applicant has complied with the instructor qualifications as set by the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 32:1231 (July 2006), amended LR 39:1768 (July 2013).

Chapter 13. Examination

§1301. Examination Requirements

A. Persons seeking a license must first pass a national examination that is:

1. approved and/or accredited by the National Commission for Certifying Agencies, an accrediting arm of the National Organization for Competency Assurance and approved by the board; or
2. approved and administered by the Federation of State Massage Therapy Boards including, specifically, the massage and bodywork licensing examination (MBLEx); and
3. taken and passed within two years from the date the license application is filed.

B. As provided in R.S. 37:3556(B), a person who holds a valid, current, and unexpired license or registration to engage in the practice of massage therapy in another state, territory, commonwealth, or the District of Columbia that has and maintains standards and requirements of practice and licensure or registration that substantially conform to the requirements in force in Louisiana, as determined by the board, may be exempt from the national test requirements of this Section and the educational requirements of §1101.B of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., and R.S. 37:3556(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1232 (July 2006), LR 39:1769 (July 2013).

Chapter 14. Criminal History Records Information

§1401. Scope of Chapter

A. The rules of this Chapter govern the collection and use of criminal history records information in connection with applications for an initial license or reinstatement of a

license of a massage therapist in conformity with R.S. 37:3556.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., and R.S. 37:3556.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1769 (July 2013).

§1403. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant—an individual who has made application to the board for the issuance or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.

Board—the Louisiana Board of Massage Therapy.

Bureau—the Louisiana Bureau of Criminal Identification and Information of the Office of State Police within the Department of Public Safety and Corrections or a similarly recognized police agency outside of Louisiana.

Criminal History Record Information—

a. information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice or an individual consisting of detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom including sentencing, criminal correctional supervision and release;

b. does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

FBI—the Federal Bureau of Investigation of the United States Department of Justice.

License or Licensure—any license, permit, certification, or registration which the board is authorized by law to issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1769 (July 2013).

§1405. Criminal History Record Information Requirement

A. As a condition for eligibility for the issuance of an initial license or the reinstatement of any license, an applicant must submit, along with the application, a criminal history record which has been obtained from the bureau or the FBI and has a certification date that is not more than six months prior to date of the license application.

B. The application of an applicant who fails to comply with the requirements set forth in Subsection A of this Section shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1769 (July 2013).

§1407. Effect of Application

A. The submission of an application for licensure to the board along with the criminal history information shall constitute and operate as a consent by the applicant for disclosure and release of such information and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto subject to the limitations as set forth in §1413 of this Chapter.

B. The submission of an application for licensure along with the criminal history information to the board shall constitute and operate as an acknowledgement and authorization by the applicant for the board's utilization of criminal history record information to determine his or her suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an applicant in the state of Louisiana for violation of any of the causes specified by R.S. 37:3563 and the board's rules respecting any such massage therapist as set forth in LAC 46:XLIV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., and R.S. 37:3563.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1769 (July 2013).

§1409. Procedural Requirements

A. In conformity with the substantive requirements of §1405 of this Chapter, an application for licensure, whether initial or reinstatement to the board, shall be accompanied by each of the following:

1. a complete criminal history record which has been obtained from the bureau or the FBI and certified by those agencies. The background history must be dated within six months of the application and must cover at least the preceding five-year period of time.

a. An applicant who has resided in Louisiana for more than five years immediately, prior to filing the license application, shall only be required to submit a criminal history record obtained from the bureau.

b. An applicant who has not resided in Louisiana for the five-year period immediately prior to filing the license application must submit either a criminal history record from Louisiana and/or any state or states in which the applicant was previously domiciled which would cover a minimum of a five-year period within six months of the application date or a criminal history record obtained from the FBI.

B. An applicant shall be responsible for the payment of all fees which may be assessed by any state or federal

agency including, but not limited to, the bureau and the FBI, which may be incurred in requesting and obtaining criminal history record information which is submitted with the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1769 (July 2013).

§1411. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the bureau, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §1407.B of this Chapter, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:3563 and 3565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., R.S. 37:3556, R.S. 37:3563, and R.S. 37:3565.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1770 (July 2013).

§1413. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:3556 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., and R.S. 37:3556.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1770 (July 2013).

§1415. Exceptions to Criminal History Information Requirement

A. The criminal history record information requirements prescribed by §§1401-1413 of this Chapter may be waived in such instances as the board, in its discretion, may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 39:1770 (July 2013).

Chapter 15. License Application Requirements

§1501. Applications—Fees, Documentation, and Validity

A. Applications for Licensure. An applicant for licensure must submit a completed application that meets the requirements of R.S. 37:3556 along with payment of the fee required by R.S. 37:3562. The application must include:

1. proof satisfactory to the board that the applicant has satisfied the requirements for licensure;
2. an official transcript from the massage therapy school showing completion of the course of instruction.

B. A license application shall be considered valid and pending for a period not to exceed 45 days. After 45 days, the license application will be considered expired and a new application will be required to proceed with the application process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., R.S. 37:3556, and R.S. 37:3562.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1232 (July 2006), LR 39:1770 (July 2013).

Chapter 17. Professional and Establishment License

§1701. Applications—Availability, Requirements, and Expiration

A. All professional and establishment license applications are available on the board's website.

B. All professional and establishment licenses issued by the board shall expire on March 31 of each year. In order to avoid a late fee, renewal applications must be postmarked, have an e-mail acknowledgment of receipt, or other proof of delivery prior to the expiration date. The board shall have the authority to prorate the license renewal fees during any transitional period that may result from a change in expiration dates.

C. With the exception of first-year professional licensees, a minimum of 12 hours of continuing education units must be completed and submitted to the board in order to be eligible to renew the professional license. The

educational units must be from an approved program and taught by a provider registered with the board. All continuing education units will be verified by the continuing education provider.

D. Incomplete renewal applications will be returned to the licensee and may be subject to late fees as provided for in R.S. 37:3562.

E. Inactive Status

1. Those who wish to temporarily cease their activities as a massage therapist may place their license on inactive status for a period not to exceed five years by paying the inactive status fee which shall be a one-time per-application fee of not more than 60 percent of the annual license renewal fee as provided for in R.S. 37:3562 and submitting a board-provided affidavit/form. No license shall be issued to a massage therapist on inactive status. To revert to active status, the massage therapist shall submit to the board the following:

a.i. a board-provided affidavit/form requesting return to active status;

ii. payment of the current license renewal fee as provided in R.S. 37:3562;

iii. evidence of having completed a minimum of 24 hours of continuing education units within two years of the date that the application for reinstatement is filed;

b. after five years on inactive status, the license shall be considered to be a lapsed license. In order to take inactive status, the application affidavit/form must be filed within six months from the date that the person last had an active license. The commencement of the period of inactive status shall be retroactive to the date on which the person last had an active license. After the license has been expired for more than six months, the therapist will not be eligible to take inactive status unless the license has been first renewed to active status.

F. Lapsed Status. As provided in R.S. 37:3552, any license that is not renewed for a period in excess of two years from the date of its last expiration and is not on inactive status shall be considered to have become a lapsed license. Once a license has lapsed, the former holder of such license who desires to obtain a new license will be considered as a new applicant and must comply with all of the provisions of R.S. 37:3556 in order to obtain a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., 3552, 3556, 3559, 3561, and 3562.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1233 (July 2006), LR 39:1770 (July 2013).

Chapter 21. Conditional Approval of Licensure

§2101. Terms and Conditions

A. Based upon probable cause, the board may require that the applicant agree to such terms and conditions as the

board deems necessary to protect the public health and safety.

B. The terms and conditions the board may impose under this rule are:

1. before receiving a license, the applicant must appear before the board to respond to questions regarding the application;

2. when convicted of a crime, the applicant must submit copies of all available court documents (including a certified copy of the judgment, indictment or information and related documents, including police and probation reports). For purposes of these rules, a plea of "nolo contendere" to a crime constitutes a conviction of that crime;

3. the applicant must authorize the board to receive and review all records of the applicant's medical, psychiatric, or psychological treatments;

4. the applicant must submit to mental and physical examination by a board approved physician or psychologist;

5. in the event the board grants the applicant a license, the applicant must agree to limit the scope of his practice in such manner as the board may determine necessary to protect the public health and safety;

6. the applicant must agree to receive alcohol, drug abuse, or psychological counseling;

7. the license to practice massage therapy may be issued subject to probation of up to one year in duration;

8. the applicant's practice of massage therapy must be under the supervision of a board approved licensed massage therapist who may be required to make periodic reports to the board regarding the applicant's competence to practice massage therapy; and

9. such other terms and conditions reasonably designed to protect the public health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1233 (July 2006).

Chapter 25. Massage Establishment Safety and Sanitary Requirements

§2501. Safety and Sanitary Requirements

A. Sanitary Requirements. Each massage establishment shall be maintained and operated in a safe and sanitary manner. Massage establishments shall adhere to local regulations as provided for in R.S. 37:3567. Each massage establishment shall:

1. maintain all equipment used to perform massage services on the premises in a safe and sanitary condition;

2. launder, before reuse, all materials furnished for the personal use of the customer, such as towels and linens;

3. provide adequate toilet and lavatory facilities. To be adequate, such facilities:

a. shall have at least one toilet and one sink with running water;

b. shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand-drying device such as a wall-mounted electric hand dryer, and waste receptacle; and

c. all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, and adequately ventilated to remove objectionable odors;

4. adequately maintain shower facilities on the premises if equipped with a whirlpool bath, sauna, steam cabinet and/or steam room.

B. Draping. Each massage establishment shall maintain a sufficient supply of clean towels, gowns or sheets, for the purpose of covering each client during a massage. Before beginning a massage, each massage therapist shall explain to the client expected draping techniques and provide the client a clean drape for that purpose. At all times during a massage session, reasonable efforts must be made to keep covered the gluteal cleft and genitalia for male clients and the breasts, the gluteal cleft, and genitalia for female clients. The board may establish a protocol for any variation from the above described draping procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., and R.S. 37:3567.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1234 (July 2006), LR 39:1771 (July 2013).

Chapter 27. Inspections

§2701. Inspections—Licensed and Unlicensed Establishments

A. The board may make periodic inspections of all massage establishments, including licensed and/or unlicensed massage establishments.

B. Such inspections may include, but need not be limited to, confirmation that the site is being utilized for massage therapy and a determination of whether the establishment is in compliance with the laws and rules governing the establishment's operation, facilities, personnel, safety, and sanitary requirements.

C. Failure to cooperate with such inspections may lead to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1234 (July 2006), LR 39:1771 (July 2013).

Chapter 29. Notification to Board of Change of Status

§2901. Name, Ownership and/or Location Changes

A. All name, location and/or ownership changes of licensure must be reported in writing to the board within 30 days of occurrence using a form provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1235 (July 2006), LR 39:1772 (July 2013).

Chapter 31. Conduct of Massage Therapist Toward Client

§3101. Prohibition of Sexual Activity

A. All sexual activity by any person or persons in any massage establishment is absolutely prohibited.

B. No massage establishment owner or operator shall engage in, or permit any person or persons to engage in, sexual activity in a massage establishment or to use that establishment to make arrangements to engage in sexual activity in any other place.

C. No massage therapist shall engage in sexual activity with a current client of the therapist.

D. No massage therapist shall engage in sexual activity with a former client of the therapist within three months after cessation of professional services.

E. As used in this Rule and §5301 of this Part:

a. sexual activity—includes:

i. coital sexual intercourse;

ii. anal sexual intercourse;

iii. fellatio, cunnilingus;

iv. masturbation;

v. passionate kissing and acts of sadomasochistic abuse;

vi. flagellation; or

vii. torture in the context of sexual conduct;

b. the purposeful touching of the genitals of another person and the purposeful erotic stimulation of the anus, the male or female nipple, or the female breast, whether through draping or clothing, whether resulting in penetration or orgasm or not, and whether by instrumental manipulation, touching with the hands, or other bodily contact;

c. any sexual offenses proscribed by the criminal laws of Louisiana including, but not limited to, R.S. 14:83.3 and 83.4.

F. For purposes of this rule, the term *client* means and includes any person receiving massage therapy services

provided for compensation (regardless of the source, recipient or nature of the compensation), and any person receiving massage therapy services that are not provided for compensation either because of indigence or because the massage therapy services were provided within the context of a community outreach or other public service program. A massage therapist's own spouse is excluded from the term *client* under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., R.S. 37:3556(A)(4) and (6), and R.S. 14:83.3 and 83.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1235 (July 2006), LR 39:1772 (July 2013).

Chapter 33. Displaying and Ownership of License

§3301. How to Display; Board Ownership

A. Each massage establishment shall post, in plain sight, its establishment license and the license or the licensed massage therapist identification card (LMT-ID) of each massage therapist who practices in the massage establishment. Each massage therapist must have his licensed massage therapist identification card (LMT-ID) in his possession while providing massage therapy for a client and present it for review upon request.

B. A license is the property of the board and shall be surrendered upon demand of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., and R.S. 37:3556 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1235 (July 2006), LR 39:1772 (July 2013).

Chapter 37. Continuing Education

§3701. Requirements for Massage Therapists

A. Each licensed massage therapist shall complete a minimum of 12 hours each year of continuing education units (CEUs) approved pursuant to §3703 of this Chapter.

B. The continuing education requirement set forth in Subsection A of this Section shall not apply during the first 12 months after a massage therapist is first licensed in Louisiana. The continuing education requirement shall apply to the licensee for every year of licensure thereafter.

C. Definition

One Hour of Continuing Education—no less than 50 uninterrupted minutes of instruction, with no credit to be given for introduction of the speaker, meal breaks or business meetings. Sessions of less than 50 minutes but more than 30 minutes shall be counted as 1/2 hour. Instructional sessions of less than 30 minutes shall be disregarded for purposes of counting CEU credits. On line or home study courses may be considered in compliance with

this requirement if verification of completion of the course is furnished to the board.

D. Presenters/moderators/instructors of courses shall not receive credit for courses they present.

E. Failure of the licensee to satisfy the requirements of this Rule shall be in violation and shall subject the licensee to disciplinary actions pursuant to these rules.

F. A licensed individual who is serving on active duty in the United States Armed Forces shall be entitled to apply for a waiver of the CEU requirements during the period of such service and the board shall have the authority to grant such a waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1235 (July 2006), LR 39:1772 (July 2013).

§3703. Board Approval of Providers and Programs [Formerly §3901]

A. A continuing education provider is an individual and/or business that sponsors continuing education programs and presenters which has registered with the board and paid the continuing education provider fee provided for in R.S. 37:3562. The provider may also be a presenter. A continuing education provider registration term (providership) shall be for a period not to exceed 24 months. Upon expiration of the 24-month term, the provider may renew for another term. The provider shall be responsible for submitting all continuing education program information forms and payment of the continuing education program approval fee for each program being taught. The education provider fee includes the right to present two continuing education programs, which are identified in the initial registration form, during the providership period without additional charge.

1. A continuing education provider must be registered with the board before disseminating any notices that its program is approved for license renewal credit. In the event a provider does advertise without being registered with the board, that provider may be subject to a fine not to exceed \$1,000.

B. Authority to Review and Revoke Approval. The board retains the right and authority to audit and/or monitor CEU providers. The board may at any time evaluate any provider and deny, revoke, and/or decline to renew approval of that provider for good cause.

C. Approved Providers. In order to register with the board, providers must comply with the following requirements.

1. The provider must retain attendance records for at least four years following each program.

2. The provider must furnish each participant with a certificate or letter of attendance verifying that the program has been completed. The certificate shall contain the

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provider's name and number, the title of the program and instructor, the program number assigned by the board, the date, the number of CEU hours, and the licensee's name and license number.

3. Within 30 days after the program, the provider must submit to the board attendance records which include the name, license number and date of attendance for each attendee and the provider number, program name, assigned program number and number of CEU hours. Submission of attendance records may be by mail or online through the board's website.

4. A CEU certificate cannot be issued for less than the number of hours approved and attendees must complete the entire course for credit.

D. Continuing Education Program and Presenter Requirements

1. Each program presented for Louisiana CEU credits shall be relevant to and focus on massage theory, practice, methods, or laws, regulations, business or ethical principles pertaining to the practice of massage therapy or the operation of a massage therapy business and shall have stated learning objectives. No Louisiana CEU credits will be approved for programs that include:

- a. instruction in diagnosis;
- b. the treatment of illness or disease; or
- c. any service or procedure that otherwise exceeds the scope of the practice of massage therapy as defined in R.S. 37:3552(10).

2. Each program presented for Louisiana CEU credits shall be taught by a person who:

- a. holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered; or
- b. has completed at least five years of professional experience in the practice of massage therapy; or
- c. has completed at least 100 hours of non-entry level education in the subject matter to be offered and has a minimum of two years of professional experience in the subject.

3. Program Approval

a. **Program Information Form.** Providers (approved pursuant to §3703 of this Part) shall submit on a program information form provided by the board all CEU programs to be offered or presented during a providership period which shall consist of 24 consecutive months.

i. Once the program information form is submitted to the board, the program described on the form will be added to the list of approved CEU programs contained on the board website unless the provider is notified otherwise.

ii. Each provider is entitled to present two approved programs as part of its biennial provider fee, provided such programs are identified on the initial program information form.

iii. A \$50 per-program fee will be required for each additional program that the provider wishes to present for CEU credit.

iv. Once a program has been included on the approved list, it will remain on that list for the entire 24-month providership period provided that the materials presented for each program do not change.

v. The provider must demonstrate, upon request, that each program and presenter meets the requirements of Paragraphs 1 and 2 of this Subsection and failure to provide such information will result in the program being removed from the approved list.

vi. Any changes and/or amendments to a program during the 24-month providership period will require the completion of a new program information form together with the payment of a \$50 program fee.

vii. Submission of the program information form for a particular program must be submitted no later than 15 days before the program is scheduled to be taught.

b. **Other Program Approval.** Louisiana licensees may request CEU approval of a non-standard program or course of study by submitting an application form issued by the board. The form, along with a non-refundable program review fee of \$50 per program, must be presented during the year for which CEU credit is sought and the program must comply with the CEU guidelines as set forth in Paragraph 1 of this Subsection. This procedure may be used to apply for approval for activities which may include, but are not limited to, college courses, published works by the therapist, or other educational activities that may be used in lieu of CEUs for the given year. In order to be considered for approval, the non-standard program or course of study must have been completed within 12 months from the date the request for approval is submitted. Protocols for such proposed programs will be established by the board and the licensee will be provided with written notice as to whether the request for CEU credit has been approved.

c. **Provider Renewal.** A provider approval letter issued by the board pursuant to this Chapter shall be valid for a providership period of 24 months from the date that the letter was issued. Within 30 days from the expiration of the 24-month period, the provider may apply for a renewal of the providership period by submitting a renewal request. The renewal request form may be found on-line at the board website or upon request a renewal form will be mailed to the provider. In order to obtain renewal of the providership, the provider must return the completed renewal form to the board office on or before the expiration date of the current providership period, together with the provider fee of \$100. Failure to renew on or before the expiration date will result in loss of providership status and all programs offered under

the provider number will no longer be recognized as approved.

d. Statement as to Approval

i. The provider of a program approved for Louisiana CEU units may announce that the program is approved by the Louisiana Board of Massage Therapy so long as the provider number and the number of approved CEU hours are referenced in the advertising or other promotional materials.

ii. Providers may offer programs that are not approved pursuant to this Section. If a therapist is taking a program with anticipation that the program qualifies for CEU credits, it is the obligation of the therapist to make that determination by checking the list of approved programs on the board website or checking with the board office as to the approval status before taking the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555 et seq., R.S. 37:3552(10), and R.S. 37:3562.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1236 (July 2006), LR 39:1772 (July 2013).

Chapter 41. Health Data Recordkeeping

§4101. Health Data

A. Data concerning an individual's health status must be systematically and continuously collected, recorded, and communicated in order to determine therapeutic needs, according to the following criteria.

1. The format for the collection and recordation of data must provide for systematic collection, frequent updating, accessibility, and appropriate confidentiality.

2. Data may be collected from the individual, family members, pertinent others and other health care personnel.

3. Client records are to be obtained and reviewed by the licensed therapist to determine if therapeutic massage intervention is needed.

4. Current client records are to be maintained at the licensed establishment location in a confidential manner.

5. All client records must be maintained for a minimum of five calendar years after the last service is performed for that client. After five years from the last date of service, client records may be disposed of in an appropriate and confidential manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1237 (July 2006), LR 39:1774 (July 2013).

Chapter 53. Misconduct and Negligence in the Practice of Massage Therapy

§5301. Unprofessional Conduct

A. The following acts shall constitute misconduct in the practice of massage therapy or incorrect practice of massage for which disciplinary penalties may be imposed:

1. conviction or a plea of guilty in any jurisdiction, regardless of adjudication, of a crime directly relating to the practice of massage or to the ability to practice massage. Any plea of "nolo contendere" shall be considered a conviction for purposes of this rule; including pleas of guilty, nolo contendere and pleas under La. C.Cr.P. Article 893 and 894;

2. false, deceptive, or misleading advertising;

3. aiding, assisting, procuring, or advising any unlicensed person to practice massage therapy, contrary to this Rule or to a rule of the department or the board;

4. engaging in or attempting or offering to engage a client in sexual activity, including any genital contact, as provided under §3101 of this Part;

5. making deceptive, untrue, or fraudulent representations in the practice of massage;

6. practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform;

7. delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them;

8. violating any provision of any rule of the board or a lawful order issued at a board hearing or failing to comply with a lawfully issued subpoena;

9. operating any massage establishment unless it has been duly licensed as provided herein;

10. operating a massage establishment under a suspended, expired, or revoked license;

11. refusing to permit the board to inspect the business premises of the licensee during regular business hours;

12. practicing massage therapy when a license to practice massage therapy has expired, been revoked, suspended or otherwise acted against, including the denial of licensure by the licensing authority of another state, territory or country;

13. failure to perform any statutory or legal obligation placed upon a licensed massage therapist;

14. inability to skillfully and safely engage in the practice of massage therapy by reason of illness, alcohol or

substance abuse or as a result of any mental or physical condition;

15. engaging in the practice of massage therapy without a current massage license;

16. failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances;

17. failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition;

18. engaging in the practice of reflexology without a current massage therapy license.

a. For the purpose of this Rule:

reflexology—the manipulation of the superficial tissues of the hands and feet, based on the theory that manipulation of body reflex areas or zones can affect other body functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1238 (July 2006), LR 39:1774 (July 2013).

Chapter 55. Disciplinary Actions

§5501. Guidelines for Disciplinary Actions

A. When the board finds that an applicant or licensee whom it regulates has committed any of the prohibited acts set forth in the statutes or rules, the board may impose appropriate penalties within the ranges recommended in the following disciplinary guidelines.

B. Penalties imposed by the board pursuant to this Section may be imposed in combination or individually, and are as follows:

1. refusal to license an applicant; revocation or suspension of license;
2. issuance of a reprimand or censure;
3. imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.

C. The provisions of this Section are not intended and shall not be construed to limit the ability of the board to informally dispose of disciplinary actions by agreement.

D. The provisions of this Section are not intended and shall not be construed to limit the ability of the board to pursue collateral, civil or criminal actions when appropriate.

E. In determining whether an applicant who has a criminal history should be permitted to apply to be licensed or renew a license, the complaint investigation officer (CIO), designated under §5901 of this Part, shall be authorized to make an initial decision as to whether a conviction of a non-violent crime by an applicant, which conviction is less than five years old, is sufficiently related to the practice of

massage therapy so as to require the application or renewal to be presented to the board for approval. If the CIO makes a determination that the criminal activity involved is clearly not related to the ability to engage in the practice of massage therapy, the CIO may approve the applicant to continue with the application or renewal process. The CIO shall submit a report to the board as to those applicants who have been approved under this procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1238 (July 2006), LR 39:1775 (July 2013).

§5503. Injunctions and Other Relief [Formerly §5101]

A. In addition to other authorized penalties, the board may seek injunctive and other relief as provided in R.S. 37:3566.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., and R.S. 37:3566.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1237 (July 2006), LR 39:1775 (July 2013).

Chapter 59. Investigation of Complaints

§5901. Investigation Procedures

A. The board shall designate a member to serve as complaint investigative officer (CIO) to review and investigate complaints.

B. Each complaint shall be submitted to the CIO. Once a complaint is received, the CIO or the CIO's designated representative will initiate a review and investigation of the allegations. After the investigation the CIO may make a determination to dismiss the complaint or proceed to informal hearing.

C. At any point during the investigation the CIO may resolve the matter by consent agreement, which agreement must be submitted to the board for review and action.

D. The CIO shall place a formal disciplinary hearing on the board agenda for a regular board meeting or may request that a special board meeting be scheduled to consider a disciplinary matter if the investigation by the CIO disclosed any of the following:

1. a complaint is sufficiently serious to require formal adjudication;
2. failure of the licensee and/or applicant to respond to the CIO's correspondence concerning the complaint;
3. failure to resolve all issues through a consent agreement; or
4. refusal of the licensee and/or applicant to comply with the recommended remedial action.

E. When placing a disciplinary matter on the board agenda for hearing, the CIO shall submit to the board in brief concise language, a statement providing a description of the matter and the recommended disciplinary action, without making any reference to the particulars of the investigation or any finding of fact or conclusions of law arrived at during the investigative process.

F. At no time shall the CIO investigate any case as authorized by the board or this Section wherein said officer has any personal or economic interest in the outcome of the investigation or is personally related to or maintains close friendships with the complainant or the licensee. In such event, the CIO shall immediately notify the board, which shall have authority to appoint an "ad hoc" CIO for disposition of that case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., and R.S. 37:3555 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1239 (July 2006), LR 39:1776 (July 2013).

Chapter 61. Hearings

§6101. Formal Disciplinary Hearings

A. Formal Disciplinary Hearings

1. The board shall also be authorized to conduct formal disciplinary hearings.

2. The hearing shall be held before the board only after the involved licensee and/or applicant is given at least 30 days notice by registered or certified mail. The content of the notice, as well as the conduct of the hearings, shall be governed by R.S. 49:955, being further provided that the licensee be advised of the right to be represented by legal counsel. The board shall arrange for a court reporter to make an accurate recording of all testimony presented at the hearing. Any person bringing a complaint waives the privilege of confidentiality for purposes of the hearing.

3. The rules of evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and control confidential or privileged information, will apply to the formal adjudication hearing in accordance with the Louisiana Administrative Procedure Act. Thereafter, the unsuccessful applicant or licensee may apply for a rehearing, as provided in R.S. 49:959, subject to further judicial review, pursuant to R.S. 49:964, 965.

4. It is the obligation of each licensed therapists or the holder of an establishment license to keep the board informed of current contact information. Accordingly, if notice of the hearing cannot be delivered by mail because of a change of address and the new address is not provided to the board, the board may hold the hearing without the therapists or establishment license holder being present, so long as reasonable efforts have been made to obtain the licensee's new address.

5. When the licensee receives notice of a complaint and/or the scheduling of a disciplinary hearing, he may file

an answer to the notice responding to the charges, or offering any explanation or assert whatever defense is deemed applicable.

6. Upon timely request, the board has discretion to extend or continue the time set for the hearing for such reasons as:

- a. ill health;
- b. inability to obtain counsel;
- c. the complexities of the case; or
- d. other matters deemed by the board to constitute good cause.

7. The board attorney shall advise board members on proceedings during the hearing.

8. Any board member having reason to believe that he may be perceived to be biased or prejudiced against any of the parties to the proceeding or who has a personal or economic interest in the outcome of such proceedings shall immediately notify the remaining board members and request to be relieved of participation in the proceedings. Any party to such a hearing may file with the board an affidavit requesting the recusal of a board member because of bias or personal or financial interest. As soon as possible, but not later than the beginning of the hearing, the majority of the board must pass upon the request for disqualification. The concerned board member shall not vote in the action to disqualify. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event of disqualification, the board shall proceed without the disqualified member. The number of board members needed for a quorum and majority shall be reduced to compensate for the disqualified member(s).

9. The parties to the hearing are urged to confer prior to the hearing or through their respective counsel in an attempt to reduce or simplify the issues to be heard. The board will accept any joint stipulations between the parties as proven facts at the hearing. The purpose of the pre-hearing conference is to ensure that the hearing is not unduly prolonged by receiving testimony or other evidence on matters which are not seriously in dispute.

10. The board shall have discretion to consolidate one or more cases for hearing if the matters involve the same or related parties, or substantially the same questions of law or fact. The board may also grant separate hearings if such a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

11. The board shall consider a motion to modify or quash any subpoena issued in connection with the hearing or a deposition related to a hearing, provided that such motion is filed by registered mail with the board no later than three days prior to the hearing date or the date scheduled for the deposition. Grounds to quash or limit the subpoena include, but are not limited to:

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- a. testimony or material protected by privilege granted by statute, regulation, or other law;
- b. burdensomeness that would not be justified in light of the evidence's importance to the case;
- c. undue hardship on a witness;
- d. vagueness; and
- e. immateriality

12. The procedures to be followed in conducting the hearing, governing the order of proceeding, rulings on evidence, and the board's decision, are contained in the Louisiana Administrative Procedure Act.

13. The burden of proof rests upon the CIO who is presenting the charge before the board. No sanctions shall be imposed or order issued, except upon consideration of the whole record, as supported by and in accordance with, reliable, probative and substantial evidence. While proof beyond all reasonable doubt is not required to establish a given fact as true, the burden must be carried by a clear preponderance of the evidence. This standard of proof shall

apply in all hearings conducted before the board and any review or examination of evidence or any hearing requested.

14. Any party or person deemed to be governed by or under the jurisdiction of R.S. 36:3501-36:3516, may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision or rule of this board to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party. The board may seek legal counsel or an attorney general's opinion in connection with any such request.

15. Judicial review and appeal of any decision or order of the board shall be governed by R.S. 49:964-965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq., R.S. 37:3555 et seq., R.S. 49:955, and R.S. 49:964-965.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:1239 (July 2006), LR 39:1776 (July 2013).