

RULE

Department of Health and Hospitals Board of Massage Therapy

Comprehensive Rule Revisions
(LAC 46:XLV.Chapters 1-61)

In accordance with the provision of R.S. 37:3551 et seq. and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Massage Therapy has amended the current rules governing this profession. This Rule deletes statutory repetition and adds instructor qualifications.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. 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. 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, with the following additions and supplements, which shall, when used in these rules and regulations, have the following meaning unless the text thereof or the definitions contained in the above-cited statutes clearly indicate otherwise:

Board—the Louisiana Board of Massage Therapy.

Department—the Department of Health and Hospitals.

Drape—towels, gowns, or sheets used to cover clients while massage therapy is being performed.

Massage Establishment—any place of business in which massage therapy is practiced by a massage therapist.

Massage Therapist—an individual who practices or administers massage therapy to a patron of either gender for compensation. The term shall include a therapeutic massage practitioner, massage technician, masseur, masseuse, body worker, or any derivation of those titles.

Massage Therapy—means the manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition. The term shall include effleurage (stroking, petrissage (kneading), tapotement (percussion), compression, vibration, friction, active/passive range of motion, shiatsu and accupressure, either by hand, forearm, elbow, foot, or with mechanical appliances, for the purpose of body massage. Massage therapy may include the use of lubricants such as salts, powders, liquids, creams (with the exception of prescriptive or medicinal creams), heat lamps, whirlpool, hot and cold packs, salt glows, or steam cabinet baths. It shall not include electrotherapy, laser therapy, microwave therapy, colonic therapy, injection therapy, or manipulation of the joints. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, shiatsu, body

work, or any derivation of those terms. As used in these rules, the terms "therapy" and "therapeutic" shall not include diagnosis, treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Massage Therapy Instructor—an individual who is licensed as a massage therapist, who possesses credentials satisfactory to the board and who meets the criteria and is certified and approved by the board pursuant to this rule.

Person—an individual, corporation, association, or other legal entity.

Probable Cause—an apparent state of facts found to exist which would cause a reasonably prudent person to believe that the applicant has committed an act constituting grounds for disciplinary action.

Professional Massage Therapy Association—a statewide organization or statewide chapter of an organization:

a. which, either directly or through the parent organization, qualifies as a tax exempt nonprofit organization under 26 U.S.C. §501(c)(6);

b. which, within Louisiana, offers a voting membership to all licensed massage therapists who practice or reside in Louisiana and who maintain their voting membership in good standing;

c. which, within Louisiana, is administered by a governing body composed of officers democratically elected by the organization's voting membership within Louisiana; and

d. which has registered with the board pursuant to Section 701 of these rules and been recognized by the board as satisfying the requirements set forth herein.

Reflexology—the manipulation of the superficial tissues of the feet and hands, based on the theory that manipulation of body reflex areas or zones can affect other body functions which the board recognizes as being encompassed within the definition of Massage Therapy.

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 32:1230 (July 2006).

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. refuse to 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 sexualizing behavior involving a client, even if the client attempts to sexualize the 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 clients autonomy.

B. Every person licensed as a massage therapist shall subscribe to and practice by the Code of Ethics established by the board. The board shall make copies of the Code of Ethics available to licensees.

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 32:1230 (July 2006).

Chapter 11. Educational Qualifications for Licensure

1101. Educational Qualifications for Licensure

A. A person desiring to be licensed as a massage therapist shall apply to the board to take the examination provided for in R.S. 37:3557. To be eligible to take the examination, an applicant shall pay the examination fee and shall submit evidence satisfactory to the board that he has met one of the following requirements:

B.1. satisfactory completion of massage therapy studies in a 500 hour minimum supervised course of instruction. The course of instruction must be provided by a proprietary massage therapy school licensed by the State Department of Education or the Board of Regents unless otherwise approved by the board. The minimum 500 hours shall consist of: 325 hours dedicated to the study of basic massage therapy techniques and clinical practicum-related modalities; 125 hours dedicated to the study of anatomy and physiology; and, an additional 50 hours of discretionary related course work, including but not limited to hydrotherapy, business practices and professional ethics, Louisiana Law, Rules and Regulations, health and hygiene, cardiopulmonary resuscitation (CPR) and first aid and Aids/HIV and infectious disease awareness; and

2. in order to satisfactorily complete course requirements to be eligible to sit for the license examination, massage school students must attend 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 to sit for the state board examination to graduates from the student who attended the school during the period that attendance was not adequately or correctly documented;

3. in order to satisfy the requirements of this section, each class hour of each required subject must be taught by an instructor approved by the Board of Massage Therapy for that subject. The Board of Massage Therapy's inspector is authorized to review records and to conduct monitoring and spot site visits, either directly or through a duly authorized designee, to determine whether this requirement is being satisfied. The Board of Massage Therapy may deny eligibility to sit for the license examination to graduates from a non-compliant school who attended the school at the time of such noncompliance.

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 32:1231 (July 2006).

Chapter 12. Instructor Qualification

§1201. Instructor Qualification

A. A person desiring to be approved as a massage therapy instructor of a specific massage therapy technique or clinical practicum-related modality shall submit evidence satisfactory to the Board of Massage Therapy that the applicant has met one of the following:

1. that the person is a currently licensed therapist in good standing with the Board of Massage Therapy; and

2. that the person has lawfully practiced massage therapy for at least four years, or has grandfathered in as stated in Subsection B below; and

3. that the person has completed at least two times the hours of training in which he/she is responsible in the specific module, except that this Subparagraph shall not apply to instruction of basic Swedish and/or relaxation massage therapy.

B. A person may be grandfathered in as an instructor, if the person has:

1. applied for and paid for a license as an instructor on board approved applications within 45 days of promulgation of rule;

2. is currently approved by the Board of Regents; and

3. is a licensed massage therapist currently in good standing with the Board of Massage Therapy.

C. A person desiring to be approved as an instructor of anatomy lecture, physiology lecture, or kinesiology lecture shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years; or

2. has a minimum of an associates or bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the US Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in one of the following: anatomy, physiology, kinesiology, sports medicine, exercise physiology, nursing, education with a concentration in biology or a substantially equivalent major; or

3. is a licensed physician (MD), osteopath, chiropractor, or registered nurse.

D. A person desiring to be certified as an instructor of business practices and marketing shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. has a least four years of experience as a full-time practicing massage therapist and owner/operator of a valid massage therapy establishment; or

2. has 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 business, marketing, or a substantially equivalent major.

E. A person desiring to be certified as an instructor of Louisiana Law, and Rules and Regulations, Ethics, pertaining to massage therapy shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for a least four years; or

2. holds a valid license to practice law in Louisiana as evidence by a certificate from the Supreme Court of Louisiana that the individual is a member in good standing of a bar of that court.

F. A person desiring to be approved as an instructor of first aid, safety, hygiene or sanitary practices shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years; or

2. is licensed as a registered nurse; or

3. has a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the US Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in nursing, or a substantially equivalent major.

G. A person desiring to be certified as an instructor of hydrotherapy shall produce evidence satisfactory to the Board of Massage Therapy that the individual is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years.

H. A person desiring to be approved as an instructor of CPR shall produce evidence satisfactory to the Board of Massage Therapy that the individual has been certified by the American Red Cross or The American Heart Association as an instructor in these topics.

I. A person desiring to be approved as an instructor of AIDS/HIV and infectious disease awareness shall produce evidence satisfactory to the board that the individual has been certified by the Federal Centers for Disease Control and Prevention as an AIDS/HIV counselor.

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 32:1231 (July 2006).

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;

2. approved by the board and has passed the Louisiana State Board Oral examination.

B. In the event that the Louisiana Examination written is used, it may include the following subjects: theory of massage therapy, anatomy, physiology, hydrotherapy, statutes and rules concerning massage, and business ethics.

C. An oral examination may include: clinical situations; statutes and rules; any of the techniques listed in the practical examination.

D. The score necessary to achieve a passing grade for licensure shall be 70 percent or better of 100 percent on both the written and oral parts of the examination.

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 32:1232 (July 2006).

Chapter 15. License Application Requirements

§1501. License Application Requirements

A. Applications for Examination. An applicant for examination or re-examination for licensure must submit a completed application that is received by the board postmarked no later than 30 days prior to the examination date. The application must include proof satisfactory to the board that the applicant has satisfied the requirements for eligibility to sit for the examination. The application must include an official transcript from the massage therapy school showing completion of the course of instruction. All incomplete applications will be returned with all fees submitted and the applicant will be deemed unable to sit for the upcoming state licensing examination, unless a complete application is returned within the 30-day limit. All requests for accommodation pursuant to the Americans with Disabilities Act must be made in writing and submitted with the application.

B. Test Procedures and Results. Applicants arriving after the examination has begun will not be admitted. Test results will be mailed within 30 days of the test date. Test results will not be given over the telephone. Where payment for a license is not received by the board or postmarked within 45 days from the date that the results are mailed, the license shall be regarded as null and void and the applicant will be required to reapply and re-test for licensure.

C. Re-Examinations. An applicant who fails a part of the state examination for licensure shall pay fee(s) required to retake only the part of the examination failed.

D. Review Procedures. In the event that the state written examination is given, an applicant is entitled to review his examination questions, answers, papers, grades and the grading key used in the state examination for licensure under such terms and conditions as may be prescribed by the board. Fees for such review of the licensure examination shall be:

1. review of written examination—\$75;
2. review of oral examination—\$75.

E. Board Examination Review Request. If, following review of his examination, an applicant believes that an error was made in the grading of his examination or in the evaluation of his answers, he may request that the board review his examination. Requests for review must be in writing, stating with specificity the reasons why review is requested. The request must be received by the board within 30 days after the applicant has received notice that he failed all or part of examination.

F. Board Examination Review. Upon the receipt of a request for review, the board shall, within 30 days, review the applicant's examination. If the board finds that an error was made, the board will correct the grade received by the applicant to reflect that finding. The applicant shall be notified of the board's action. If an error is found that effects pass/fail status, the board will waive the fees for review.

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 32:1232 (July 2006).

Chapter 17. License and Establishment Registration

§1701. License and Establishment Certificate Renewal

A. The board will send license renewal forms to the last address given by the licensee to the board in writing. The board will send establishment registration certificate renewal forms to the last address given by the establishment to the board in writing.

B. Renewal applications for licenses and for massage establishments must be received by the board postmarked no later than December 31 of the calendar year. If an application for inactive status or renewal is neither received nor postmarked by this date, the license or registration certificate shall be considered expired.

C. Applications for license renewal must be accompanied by copies of the certificates or letters of attendance showing that the licensee has satisfied board approved continuing education requirements.

D. Incomplete renewal applications will be returned to the licensee and may be subject to late fees.

E. License renewals will be issued only upon confirmation that the licensee is practicing at a massage establishment that is registered pursuant to these rules or qualifies for a statutory exception to the registration requirement. A licensee who provides any massage therapy services for compensation at any point during the calendar year shall be regarded as a practicing licensee.

F. Inactive Status. Those who wish to put their active registration on the inactive list, remaining there for a period not to exceed five years before returning to active practice,

may do so without reexamination or late fees upon submission of an affidavit provided by the board requesting inactive status, which shall attest that they shall not perform massage therapy for compensation within the state of Louisiana while on inactive status. They shall surrender their license and certificate to the board and no license certificate shall be issue while on inactive status. To reinstate to active status the licensee must submit an affidavit provided by the board stating they are returning to active status, pay the current year license renewal fee, and submit proof to the board the licensee has satisfied the CEU requirements that would have been a[applicable had the licensee been on active status. After five years of inactive status, the licensee shall be considered expired.

G. Any license that is not renewed or placed on inactive status before the licenses has lapsed will be deemed expired and will need administrative approval before the licenses can become active.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(A)(1), (A)(4) and (A)(6), 3559, 3561.

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 19. Requirements and Supervision

§1901. Provisional License

A. Board approval for examination of an applicant who possesses the qualifications specified in R.S. 37:3556(B)(1) shall constitute approval for a provisional license providing the applicant submits the provisional license fee of \$25, submits a form signed by a licensed massage therapist(s) who agrees to supervise the provisional licensee according to R.S. 37:3551 et seq., is not under investigation for any conduct that could result in the denial of licensure, and meets all other qualifications of R.S. 37:3551 et seq. For purposes of this rule, the term "supervise" requires that the supervising massage therapist(s) must be physically in the massage establishment at all times when the provisional licensee is providing massage therapy services.

B. Advertising of massage services rendered by a provisional licensee is prohibited unless such advertisement clearly indicates that the licensee holds a provisional license and is practicing under the supervision of a licensed massage therapist.

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 21. Conditional Approval To Take Licensure Examination

§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 (1) 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. To that end, each massage establishment shall:

1. comply with all state and local building fire and safety code requirements;

2. provide for safe and unobstructed human passage in the public areas of the premises, removal of garbage and refuse and safe storage or removal of flammable materials;

3. maintain on the premises a fire extinguisher in good working condition;

4. exterminate all vermin, insects, termites, and rodents on the premises;

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

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

7. provide adequate toilet and lavatory facilities. To be adequate, such facilities shall have at least one toilet and one sink with running water. Such facilities 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. Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, and adequately ventilated to remove objectionable odors;

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

9. maintain current property damage and bodily injury liability insurance coverage for the establishment with minimum limits of \$1,000,000 per occurrence and require that all licensed massage therapists and provisionally licensed massage therapists practicing at the establishment be covered by professional malpractice coverage with minimum limits of \$1,000,000 per occurrence, with originals or copies of policies or certificates of insurance for all such coverage's to be available on the premises of the establishment;

10. maintain toilet facilities in a common area of the establishment. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such central facilities shall be within 300 feet of the massage establishment;

11. maintain lavatories for hand cleansing and/or chemical germicides designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.

B. Draping. Each massage establishment shall maintain a sufficient supply of clean drapes for the purpose of draping each client during massage. Before beginning a massage, each massage therapist shall have explained expected draping techniques and provided the client a clean drape for that purpose. In the case of a male client, the gluteal cleft and genitalia must be covered; and, in the case of a female client, breasts, the gluteal cleft, and genitalia must be covered. 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.

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).

Chapter 27. Inspection upon Application for Registration of Establishments

§2701. Inspections

A. Upon receipt of an application for a massage establishment registration certificate, the board may cause an inspection to be made of the site. The board further may make periodic inspections of all massage establishments, including unregistered 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, 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, review of existing insurance coverage, and review of client history records and billings records.

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

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 32:1234 (July 2006).

Chapter 29. Notification to Board of Change of Status §2901. Name, Ownership and/or Location Changes

A. Massage Establishments—All Changes of Name, Ownership and/or Professional Licensees

1. All changes in name(s) and/or location(s) must be reported to the board in writing within 30 days of occurrence on a form provided by the board.

2. Change in status notification will include situations where a therapist ceases to practice at a given physical location or address.

B. Location must be reported to the board within 30 days in writing, and shall require a new establishment registration.

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 32:1235 (July 2006).

Chapter 31. Prohibition on Sexual Activity in Massage Establishments and between Therapist and 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 that owner or operator's massage establishment or to use that establishment to make arrangements to engage in sexual activity in any other place.

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

D. No licensed 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 these Rules, "sexual activity" means and includes coital sexual intercourse, anal sexual intercourse, fellatio, cunnilingus, masturbation and acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct. "Sexual activity" further means and includes 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. "Sexual activity" further means and includes any sexual offenses proscribed by the criminal laws of Louisiana including, but not limited to, R.S. 14:83.3 and 83.4.

G. 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. 37:3556(A)(4) and (6).

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).

Chapter 33. Applications, Issuance of Licenses and Certificates of Registration, Referrals

§3301. Procedures

A. Applications for licensure, registration, or renewal shall be on forms provided by the board and shall be accompanied by the appropriate fees and postmarked on or before December 31, each year.

B. The board shall issue a license to each person qualified as a massage therapist and a registration certificate to each qualified massage establishment. To be qualified for licensure as a massage therapist, an applicant shall have successfully passed the examination provided for in this rule. Such license or certificate grants all professional rights, honors, and privileges relating to the practice of massage therapy.

C. Each licensed massage therapist shall publicly display his license. In addition, each massage establishment shall post, in plain sight, its certificate or registration and the license of each massage therapist who practices in the massage establishment.

D. A license or registration certificate is the property of the board and shall be surrendered upon demand of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3556(A)(4) and (6).

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).

Chapter 35. Provisional License, Limited Renewal §3501. Limitations

A. An applicant who possesses the qualifications specified in these Rules to take the board examination may be granted a provisional license to engage in the practice of massage therapy until the date of the next examination are known.

B. An individual who has been issued a provisional license shall only practice massage therapy under the supervision of a licensed massage therapist.

C. Such provisional license may, at the discretion of the board, be renewed once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3556(A)(4) and (6).

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).

Chapter 37. Continuing Education

§3701. Continuing Education Requirements

A. Each licensed massage therapist shall complete a minimum of 12 hours each calendar year of Continuing Education Units (CEUs) approved pursuant to §3901 of these rules.

B. The continuing education requirement set forth in Subsection A above shall not apply to a massage therapist during the calendar year in which the therapist is first licensed in Louisiana. The continuing education requirement shall apply to the licensee for every calendar year of licensure thereafter.

C. One hour of continuing education is defined as 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.

D. The board will not grant CEU credit to a therapist for a program that is taken more than twice.

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

F. Each year, an application for renewal will be mailed to each licensee at the last address provided to the board. Applicants shall submit a copy of the certificate received to the board. The CEU certificate shall have the providers name and number, the title of the program and the presenters signature, the date, the number of CEU hours, and the licensee's name and license number.

G. Failure of the licensee to satisfy the requirements of this Rule shall be a violation and shall subject the licensee to disciplinary actions pursuant to these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(B)(2) and 3561.

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).

Chapter 39. Requirements for Board Approval of Continuing Education Providers and Programs

§3901. Continuing Education Provider Requirements

A. Board Approval Requirement. For the purpose of renewing or reinstating a license, credit for Continuing Education Units (CEUs) will be awarded only for providers and programs approved by the board. Each provider must make application for board approval on forms provided by board, submit a fee of \$100 for an initial request for provider approval and \$100 for a bi-annual request for provider renewal, and a fee of \$50 program application and demonstrate that the provider will meet the following requirements.

1. The provider must have approval, in writing, from the board before disseminating any notices that their program is approved for license renewal credit. In the event a provider does advertise approval by board and approval has not been granted in writing, that provider may be subject to a \$1,000 fine and for a two year period no application for approval of continuing education programs by provider will be considered for approval. At the end of that two year period the \$1,000 fine must have been paid before any applications are considered for any future programs by that provider.

B. The continuing education provider must provide in writing, to the board, the name and address of the person responsible for insuring that each program meets the following requirements.

C. Authority to Review and Revoke Approval. The board retains the right and authority to audit and/or monitor CEU providers and/or programs. The board may at any time evaluate any provider and/or program and deny, revoke, and/or decline to renew approval of that provider and/or program for good cause. This right to deny, revoke and/or decline to renew approval includes, but is not limited to, the right to deny, revoke and/or decline to renew approval if the provider has disseminated any false or misleading information in connection with the continuing education program or if the provider has failed to conform to and abide by any governing standards, rules and/or written agreements concerning the provider and/or program.

D. Approved Providers. Subject to Subsection B above, providers may obtain approval from the board upon making application on a form approved by the board, submitting a fee of \$100 for an initial request for provider approval, and demonstrating that the provider will meet the following requirements:

1. The provider must retain a "sign-in sheet" with the signature of participants and copies of any promotional materials for at least four years following each program. The provider must furnish each participant with a certificate or letter of attendance verifying that the program has been completed. The certificate or letter shall not be issued until completion of the program and shall contain the provider's name and number, the title of the program and instructor, the date, the number of CEU hours, and the licensee's name and license number. Within 30 days after the program, the provider must send a copy of the sign-in sheets to the board, together with a listing of the names and addresses of the persons who received a certificate or letter of attendance for the program. A CEU Certificate can not be issued for less than the number of hours approved.

2. Each program presented for Louisiana CEU credits shall be relevant to and focus on massage theory, practice, methods, or laws, regulations and ethical principles pertaining to the practice of massage therapy and shall have stated learning objectives. No Louisiana CEU credits will be approved for programs that include instruction in diagnosis, the treatment of illness or disease, or any service or procedure that otherwise exceeds the scope of massage therapy as defined by R.S. 37:3552(5).

3. 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.i. has completed at least five years of professional experience in the practice of massage therapy; and

ii.(a). has, within the last three years of professional experience, taught a program in the subject matter at least four times; or,

(b) 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;

(c). was approved by the board as a presenter prior to January 30, 2002.

4. The provider must provide to the board, in writing, the name and address of the person responsible for ensuring that each program meets the requirements of Paragraphs 1-3 above and said person shall so certify in the application for provider approval.

E. Providers must have approval, in writing, from the board before disseminating any notices that their program is approved for license renewal credit. In the event a provider does advertise approval by the board and approval has not been granted in writing, that the provider may be subject to a fine up to \$1,000 and/or up to a two year period, no application for approval of continuing education programs by that provider will be considered for approval. The fine must be have been paid before any applications are considered for any future programs by that provider.

F. Program Approval. Providers approved pursuant to Subsection A above may obtain approval for all programs to be offered for the full duration of their two-year period as an approved provider. Providers may obtain program approval by making timely application on a form approved by the board, submitting a program fee of \$50 that will cover all programs within the two year period that is exactly the same material presented and the same presenter. The provider must demonstrate that each program and presenter meets the requirements of Subsection A above. The provider may amend the program application at any time during the two-year period to add additional programs and/or presenters after an application has been approved by the state board and a \$50 fee has been paid. Approval for a particular program will be denied if sought later than 45 days before the start of the program.

G. Out-of-State Program Approval. A Louisiana licensee or licensees may request approval of an individual out-of-state program that has not been approved pursuant to the foregoing provisions by submitting 45 days before the date of the program, an application form approved by the board, all materials showing curriculum objectives and Subsection D above and a program review fee of \$50. If the individual licensee is seeking approval for multiple programs offered at a national convention of a professional massage therapy organization, only a single \$50 fee need be paid by the licensee to seek approval for the multiple programs. Approval shall be for the program sessions attended by the Louisiana licensee(s).

H. Other Program Approval. Louisiana licensee or licensees may request approval of a non-standard program that has been approved pursuant to the foregoing provisions. The licensee must submit an application form issued by the board, 45 days before the date of the program, accompanied by a program review fee of \$50. This form may be used to apply for approval for such things as but not limited to, college courses or published works by the therapist, to be used in lieu of CEUs for the given year. Protocols for such proposed programs will be established by the board.

I. Provider Renewal. A certificate from the board approving a provider pursuant to Subsection F above shall be valid for a period of two years from the date that the certificate was issued. During the certificate renewal period, an application for renewal will be mailed to the provider at the last address supplied to the board. In order to obtain renewal of the certificate, the provider must return the completed renewal form to the board on or before the

expiration date of the current certificate, together with a provider renewal fee of \$100. Failure to renew your application by the second anniversary (expiration date) will result in loss of provider status and all programs will become null and void. Failure to abide by the following standards will result in the revocation of the providership for a period of five years.

J. Statement as to Approval

1. The provider of a program approved for Louisiana CEU units may announce or indicate in advertising, promotional and other materials as follows :

"Approved by the Louisiana Board of Massage Therapy for a maximum of ___ hours CEUs".

No other statement regarding Louisiana CEU approval may be made in advertising, promotional and/or other materials, included but not limited to, a statement that an application has been to the board for approval or that the provider intends to apply for approval.

2. Providers may offer programs that are not approved pursuant to this Section. However, if a provider offers a program for which approval is not sought, or for which approval has been denied, the provider must announce in all advertising, promotional and other materials concerning the program as follows:

"Not offered for Louisiana State Board of Massage Therapy CEUs".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(B)(2) and 3561.

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).

Chapter 41. Health Data Record Keeping **§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 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.

a. Client records are to be maintained at the registered establishment location in a confidential manner.

b. Client records must be maintained for a minimum of five calendar years. After this period, records may be disposed of in an appropriate and confidential manner.

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 32:1237 (July 2006).

Chapter 51. Discipline and Injunctions **§5101. Discipline and Injunctions**

A. In addition to the above actions and penalties, the board may cause to be issued an injunction without bond enjoining any person from violating or continuing to violate the provisions of R.S. 37:3501 et seq. in any court of competent jurisdiction.

B. In the suit for an injunction, the Board may demand of the defendant a penalty of \$50 per day for each violation, reasonable attorney fees, and the court costs.

C. The judgment for penalty, attorney fees, and court costs may be rendered in the same judgment in which the injunction is made absolute.

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 32:1237 (July 2006).

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 finding of guilty in any jurisdiction, regardless of adjudication, of a crime which 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, where provided under §3101 of these rules;

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 of 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 been expired, revoked, suspended or otherwise acted against, including the denial of licensure by the licensing authority of another state, territory or country;

13. failure to maintain continuing property damage and bodily injury liability insurance in the operation of a massage establishment;

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

15. inability to practice massage with reasonable skill and safety to clients, by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of substance or as a result of any mental or physical condition;

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

17. 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;

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

19. engaging in the practice of reflexology without a current massage therapy license; and for the purpose of this rule, "reflexology" is defined as 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.

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).

Chapter 55. Disciplinary Actions

§5501. Guidelines for Disciplinary Actions

A. When the board finds that an applicant, provisional licensee, or licensee whom it regulates has committed any of the prohibited acts set forth in the statute 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.

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 32:1238 (July 2006).

Chapter 57. Minor Violations

§5701. Minor Violations

A. The board hereby deems the following violations to be minor:

1. failure to include the license number of either the massage therapist or the massage establishment in advertisements as required by this Rule;

2. practicing with an inactive license in violation of these rules when the license has become automatically inactive for failure to renew, so long as the license is reactivated within 30 days of automatic reversion to inactive

status. Practice for more than 30 days of automatic reversion to inactive status. Practice for more than 30 days after a license has automatically reverted to inactive status shall not be a minor violation.

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

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR20:1111 (October 1994), amended LR 32:1238 (July 2006).

Chapter 59. Investigation of Complaints

§5901. Investigation Procedures

A. The board shall designate a member to serve as complaint investigative officer for each complaint.

B. Each complaint shall be submitted to the CIO. Once a complaint is received, the board designated CIO will initiate a review of the allegations. After the investigation the CIO may dismiss the case or proceed to informal hearing.

C. At informal hearing the CIO hearing the matter may resolve the matter by consent agreement, which must be submitted to the board for review and action.

D. The CIO shall recommend to the board the initiation of a formal disciplinary hearing if the investigation 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 of an informal hearing to resolve all issues;

or,
4. refusal of the licensee and/or applicant to comply with the recommended remedial action.

E. The CIO shall submit any recommended action to the Board in brief concise language, without 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, who 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.

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).

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 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 his 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. By bringing a complaint, the client 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 Procedures 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 licensee's or establishment registration's continuing obligation to keep the board informed of his whereabouts. 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 in the licensee's or establishment registration's absence, after making reasonable efforts to obtain the licensee's or establishment registration's new address.

5. When the licensee or establishment registration receives notice, he may file an answer to the notice denying some or all of the charges, or offering any explanation or assert whatever defense is deemed applicable.

6. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to present good cause if the request is done in reasonable time.

7. The board shall elect from its membership a person to act as presiding officer at the hearing to make rulings on objections and the admissibility of evidence and to insure that the conduct of the hearing proceeds without delay and pursuant to law. Other board members may not delegate their decision-making and fact-finding duties to the presiding officer nor shall the presiding officer have any greater weight in the decision-making process. The board's findings of fact and conclusions of law shall be signed by the majority of the board finding those facts and conclusions of law. Any board member disagreeing with those findings of fact and conclusions of law may also file a dissent in the record.

8. Any board member having reason to believe that he is biased or prejudiced against any of the parties to the proceeding or who has a personal or economic interest in the outcome 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 a disqualification 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 board members needed for a quorum and majority shall be reduced to compensate for the disqualified members.

9. The parties to the hearing are urged to confer prior to the hearing or through their respective counsel to attempt to reduce or simplify the issues to be heard. The board will,

however, honor any stipulations arrived at between the parties as proven fact at the hearing. The purpose of the pre-hearing conference is to ensure that the hearing is not unusually delayed 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 involving 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 presiding officer shall consider a motion to modify or quash any subpoena issued in connection with the 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 if the subpoena was issued in connection with a deposition. Possible grounds to quash or limit the subpoena include, but are not limited to: Testimony or material protected by privilege of statute, regulation, or other law; burdensomeness that would not be justified in light of the evidence's importance to the case; undue hardship on a witness; vagueness; and, 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 bringing the charge before the board. No sanctions shall be imposed or order be 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 obtain 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.

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).

Kayla Perkins
Executive Director

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