

**REVISED PROPOSED REGULATION OF THE
BOARD OF MASSAGE THERAPY**

LCB File No. R128-20

November 25, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, 7, 8, 10-24, 30-32, 41, 45, and 46, NRS 640C.320; §5, NRS 640C.320, and 640C.420; §§6, 9, 26, 27 and 33-40, NRS 640C.320 and 640C.330; §25, NRS 640C.320 and 640C.710; §§28 and 29, NRS 640C.320, 640C.330 and 640C.520; §§42 and 43, NRS 640C.320 and 640C.700; §44, NRS 640C.320 and 640C.755.

A REGULATION relating to massage therapy; defining certain terms; requiring an applicant for a license to practice massage therapy, reflexology or structural integration to take and pass an examination administered by the Board of Massage Therapy; establishing provisions related to educational requirements of other jurisdictions which are substantially equivalent to the requirements of this State for the purpose of licensure by endorsement to practice massage therapy, reflexology or structural integration; requiring a holder of a certificate to make certain disclosures to a client concerning reports made to the Board; authorizing the Board to renew an inactive license to practice massage therapy, reflexology or structural integration under certain circumstances; requiring massage therapists and structural integration practitioners to take certain courses in continuing education; authorizing a parent or guardian of a minor child to be present while the minor child receives massage therapy, reflexology or structural integration; authorizing the use of an alias by a massage therapist under certain circumstances; requiring the Board and parties to follow certain procedures relating to service of process; requiring certain persons to act in a respectful manner at hearings of the Board; authorizing the Board to take official notice under certain circumstances; establishing procedures relating to declaratory orders and advisory opinions issued by the Board; establishing provisions concerning a petition for the adoption, filing, amendment or repeal of a regulation of the Board; authorizing the Board to review the criminal history of a person wishing to apply for a license to practice massage therapy, reflexology or structural integration; revising certain provisions relating to massage establishments, reflexology establishments and structural integration establishments; revising provisions relating to required reporting of certain information by a licensee or holder of a certificate; establishing certain fees collected by the Board; revising various provisions concerning the standards of practice of massage therapists, reflexologists and structural integration practitioners; revising provisions concerning administrative fines; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes the Board of Massage Therapy and requires the Board to adopt regulations relating to the practices of massage therapy, reflexology and structural integration. (NRS 640C.150, 640C.320, 640C.330)

Section 3 of this regulation defines “clinical instruction” as the practice of massage therapy, reflexology or structural integration on members of the public in a clinical setting.

Existing law requires an applicant for a license to practice massage therapy, reflexology or structural integration to take and pass a nationally recognized examination under certain circumstances. (NRS 640C.580, 640C.600, 640C.620) Existing regulations set forth the examinations that are recognized by the Board. (NAC 640C.050) **Section 4** of this regulation requires the applicant to take and pass an additional examination administered by the Board. **Section 46** of this regulation provides that applicants are required to take and pass the examination administered by the Board on or after July 1, 2022.

Existing law authorizes the Board to issue a license under certain circumstances to an applicant who holds a current license to practice massage therapy, reflexology or structural integration issued by another state, territory or possession of the United States or the District of Columbia, if the licensing requirements of the other jurisdiction at the time of licensing were substantially equivalent to the licensing requirements of this State. (NRS 640C.420) **Section 5** of this regulation establishes the procedure for determining when educational requirements for licensure in other jurisdictions are deemed substantially equivalent to those of this State. **Section 5** also requires the Executive Director of the Board or his or her designee to maintain a list of jurisdictions with substantially equivalent licensing requirements to those of this State.

Existing regulations require a holder of a certificate to report to the Board any statement made by a client concerning the client being touched inappropriately by a massage therapist, reflexologist or structural integration practitioner at a massage establishment, reflexology establishment or structural integration establishment. (NAC 640C.093) **Section 6** of this regulation requires the holder of the certificate to inform the client who made the statement that: (1) the statement will be reported to the Board; (2) the report may include personally identifiable information of the client; and (3) the personally identifiable information will remain confidential unless confidentiality is waived by the client. **Section 6** also requires the holder of the certificate to offer to report the statement to the Board on behalf of the client.

Existing law requires an inactive holder of a license to practice massage therapy, reflexology or structural integration to complete certain requirements in order to renew his or her license. (NRS 640C.510) In addition to these requirements, **section 7** of this regulation requires the inactive holder of the license to: (1) complete any continuing education that would have been required had the license been active; and (2) take and pass any examination required by the Board. **Section 7** also requires the inactive holder of the license to complete at least 2 hours of continuing education in the topic of human trafficking within the licensing period immediately following the renewal of his or her license.

Existing regulations require a massage therapist or structural integration practitioner to complete at least 24 hours of continuing education for each licensing period. (NAC 640C.100) **Section 8** of this regulation requires the massage therapist or structural integration practitioner to complete: (1) at least 2 hours of continuing education in the topic of human trafficking during the first licensing period; and (2) at least 2 hours of continuing education in the topic of ethics during each licensing period. **Section 8** also requires the Board to: (1) review and approve courses of continuing education in the topics of human trafficking and ethics; and (2) maintain a list of all such approved courses. **Section 45** of this regulation authorizes a massage therapist or structural integration practitioner, on or after July 1, 2022, to take and pass the examination administered by the Board pursuant to **section 4** of this regulation in exchange for 2 hours of continuing education.

Section 9 of this regulation authorizes a parent or guardian of a minor child to be present while the child is receiving massage therapy, reflexology or structural integration. If the parent or guardian chooses not to be present, **section 9** requires the parent to sign a waiver before the child receives the massage therapy, reflexology or structural integration. **Section 9** also requires a massage establishment, reflexology establishment or structural integration establishment to maintain the waiver for at least 2 years.

Before using any alias, **section 10** of this regulation requires a massage therapist to disclose the alias to the Board.

Section 11 of this regulation requires the Board and any parties to serve certain documents personally or by certified mail. **Section 11** additionally requires the attorney of a party, if applicable, to be served with the documents.

Section 12 of this regulation requires all parties, attorneys and counsel to conduct themselves in a respectful manner during hearings of the Board.

Section 13 of this regulation authorizes the Board to take official notice of regulations, official reports, decisions, orders, standards or records of the Board, any regulatory agency of this State or any court of record.

Sections 14-17 of this regulation establish various procedures concerning declaratory orders and advisory opinions issued by the Board, including, without limitation, how to submit a petition to obtain an order or opinion and how the Board will grant or deny the petition.

Section 18 of this regulation establishes a procedure for a person to petition the Board to adopt, file, amend or repeal a regulation of the Board. **Section 18** also establishes a procedure for the Board to act upon such a petition.

Existing law requires regulatory bodies to develop and implement a process by which a person with a criminal history can petition the regulatory body to determine if the criminal history of the petitioner will disqualify him or her from being licensed by the regulatory body. (NRS 622.085) **Section 19** of this regulation establishes the process for: (1) a person to file such a petition with the Board; and (2) the Board to review the petition.

Existing law requires an applicant to have successfully completed a program for reflexology in order to be licensed by the Board. (NRS 640C.600) Existing regulations require a program for reflexology to meet certain requirements in order for the program to be recognized by the Board. (NAC 640C.055) **Section 23** of this regulation recognizes the International Therapy Examination Council (ITEC) diploma in reflexology.

Existing law authorizes the Board to place an applicant or licensee on probation under certain circumstances. (NRS 640C.710) Existing regulations authorize the Board to issue a license and then immediately place the licensee on probation. Existing regulations provide that the terms of the probation may prohibit the licensee from providing outcall services. (NAC 640C.075) **Section 25** of this regulation defines “outcall services” as massage therapy, reflexology or structural integration provided for compensation in a location other than at the address set forth in the business license of the massage establishment, reflexology establishment or structural integration establishment.

Existing regulations prohibit a person from operating a massage establishment, reflexology establishment or structural integration establishment unless the person has obtained from the Board a certificate to operate such an establishment. Existing regulations require the Board to issue the certificate if the applicant submits an application to the Board and complies with all applicable provisions of law. (NAC 640C.083) **Section 26** of this regulation revises the application and approval procedure for obtaining a certificate by additionally requiring the applicant to include in his or her application: (1) a copy of his or her business licenses; (2) a list of services that the establishment intends to provide to clients; and (3) a photograph of the entrance of the establishment. Further, **section 26** requires the Board to deny the application for a certificate if the applicant has been: (1) convicted of advancing prostitution; (2) arrested or convicted of certain crimes; or (3) previously cited by the Board for facilitating unlicensed activities. **Section 26** also outlines the requirements for renewing a certificate.

Existing regulations require a licensee or holder of a certificate to notify the Board within 10 business days of the occurrence of certain events. (NAC 640C.090) **Section 27** of this regulation instead requires the licensee or holder of a certificate to report, not notify, the Board of the occurrence of such events. Additionally, **section 27** expands the list of reportable events by including: (1) the arrest of a licensee or holder of a certificate; and (2) the issuance of an extended order for protection against domestic violence, stalking or harassment. **Section 27** also requires the Executive Director or his or her designee to review the report. Further, **section 27** authorizes: (1) the Executive Director or his or her designee to investigate the report and to request additional information concerning the report from the licensee or holder of the certificate; and (2) the Board to institute disciplinary action against the licensee or holder of the certificate if he or she fails to report a required event or provide the requested information.

Existing regulations set forth certain fees collected by the Board. (NAC 640C.095) **Sections 28 and 29** of this regulation expand the existing schedule of fees.

Existing regulations authorize a massage therapist, reflexologist or structural integration practitioner to carry over a limited number of excess hours of credit in continuing education for up to 3 succeeding years. (NAC 640C.100, 640C.115) **Sections 30 and 32** of this regulation

increase the number of years that a massage therapist, reflexologist or structural integration practitioner can carry over to 6 succeeding years.

Existing regulations prescribe certain sanitary and safety requirements for a massage establishment, reflexology establishment or structural integration establishment, including the requirement that the establishment provide shower facilities under certain circumstances. (NAC 640C.200) **Section 33** of this regulation requires that when it is impracticable to sanitize or disinfect any equipment, furniture or fixture in the establishment, a barrier must be placed between the client and the equipment, furniture or fixture. **Section 33** also provides that if a massage establishment, reflexology establishment or structural integration establishment has a dry sauna, then the establishment need not provide shower facilities under certain circumstances.

Existing regulations require massage therapists, reflexologists and structural integration practitioners to take certain actions concerning the use of lubricants, spa treatments, muds and body wraps. (NAC 640C.210) **Section 34** of this regulation requires a massage therapist, reflexologist or structural integration practitioner to ensure that there are no contraindications before using a lubricant or topical application on a client.

Existing regulations require a massage establishment, reflexology establishment or structural integration establishment to ensure that its windows and doors exclude all rodents, insects and vermin. (NAC 640C.220) **Section 35** of this regulation expands the requirement by requiring the establishment to ensure that it effectively excludes rodents, insects and vermin.

Existing regulations establish certain requirements for a room where massage therapy, reflexology or structural integration is practiced. (NAC 640C.230) **Section 36** of this regulation: (1) removes the requirement that a room where reflexology is practiced be designed to provide privacy for the client; (2) requires a room where massage therapy or structural integration is practiced to have enough space for the massage therapist, structural integration practitioner or client to move around the massage therapy or structural integration table; (3) prohibits a room where massage therapy, reflexology or structural integration is practiced from having surveillance equipment under certain circumstances; and (4) revises certain provisions concerning simultaneously using a room where massage therapy, reflexology or structural integration is practiced for other purposes.

Existing regulations require a massage establishment, reflexology establishment or structural integration establishment to have an adequate supply of hot and cold water that is safe and sanitary. (NAC 640C.260) **Section 37** of this regulation requires the hot water to be at least 100 degrees Fahrenheit.

Existing regulations require a massage establishment, reflexology establishment or structural integration establishment to ensure that certain requirements are met concerning bathing facilities at the establishment. (NAC 640C.270) **Section 38** of this regulation additionally requires a holder of a certificate to ensure that the requirements for bathing facilities are met. **Section 38** also expands the definition of “bathing facility.”

Existing regulations require a massage establishment, reflexology establishment or structural integration establishment to annually provide a list of all licensed employees to the

Board. (NAC 640C.337) **Section 39** of this regulation removes the requirement that the establishment annually provide the list to the Board and instead requires that the establishment provide the list: (1) upon request to the Executive Director or his or her designee; and (2) to a representative of the Board conducting an inspection of the establishment.

Existing regulations require advertisements of a massage therapist to include his or her license number. (NAC 640C.350) **Section 40** of this regulation additionally requires reflexologists and structural integration practitioners to include their license numbers in advertisements. **Section 40** also prohibits an advertisement of a massage therapist, reflexologist or structural integration practitioner from portraying an unlicensed person in a way that is inconsistent with the laws and regulations of this State.

Existing regulations require a massage therapist to take certain actions concerning communicable diseases. (NAC 640C.360) **Section 41** of this regulation additionally applies these duties to a reflexologist and structural integration practitioner.

Existing law authorizes the Board to refuse to issue a license to an applicant for a license to practice massage therapy, reflexology or structural integration or to initiate disciplinary action against a licensee if, among other circumstances, the applicant or licensee has engaged in or solicited sexual activity during the course of practicing massage therapy, reflexology or structural integration. (NRS 640C.700) Existing regulations interpret the phrase “sexual activity.” (NAC 640C.400) **Section 42** of this regulation expands the interpretation of “sexual activity” by additionally including: (1) activities related to inappropriately touching a client; (2) photographing a client or licensee or publishing or sharing a photograph of a client or licensee under certain circumstances; and (3) arrests for certain offenses within the immediately preceding 15 years.

Existing law also authorizes the Board to refuse to issue a license to an applicant to practice massage therapy, reflexology or structural integration or to initiate disciplinary action against a licensee, if the applicant or licensee engaged in unethical or unprofessional conduct. (NRS 640C.700) Existing regulations interpret the phrase “unethical or unprofessional conduct.” (NAC 640C.410) **Section 43** of this regulation establishes a new interpretation of “unethical conduct” and revises the interpretation of “unprofessional conduct” to include the existing interpretation of “unethical or unprofessional conduct” and advertising in a manner that is inconsistent with the laws and regulations of this State.

Existing regulations set forth various administrative fines. (NAC 640C.450) **Section 44** of this regulation establishes administrative fines for: (1) a massage therapist, reflexologist or structural integration practitioner who advertises in a manner that is inconsistent with the laws and regulations of this State; and (2) a reflexologist who provides services on a client who is not fully clothed.

Sections 1, 21, 22, 24, and 31 of this regulation make conforming changes.

Section 1. NAC 394.526 is hereby amended to read as follows:

394.526 1. An applicant for approval of a program of instruction in massage must include with the application proof that:

(a) The program satisfies the requirements established by the Board of Massage Therapy pursuant to NRS ~~640C.400,~~ **640C.580**, and any regulations adopted pursuant thereto, to be recognized as a program of massage therapy by the Board.

(b) The policies of the applicant prohibit the applicant from:

- (1) Enrolling a student who is less than 18 years of age;
- (2) Issuing educational credentials to any person who is less than 18 years of age; and
- (3) Allowing a student to enroll in an advanced program of instruction in massage unless the student submits proof that he or she has:

- (I) Successfully completed a basic program of instruction in massage; or
- (II) At least 2 consecutive years of experience in the practice of massage.

(c) The policies of the applicant prohibit a student from performing practice massage on a person unless:

- (1) The performance of practice massage is included in the program of instruction;
- (2) The student performs the practice massage under the direct supervision of an instructor:

- (I) On the premises of the applicant;
- (II) At a public event; or
- (III) In a licensed medical facility; and

(3) If the practice massage is performed on a person other than a student or member of the staff of the applicant:

(I) The student has successfully completed approved courses of instruction in anatomy and physiology, massage therapy, hygiene and first aid, law and ethics, and at least 25 hours of actual massage training on other students or members of the staff of the applicant;

(II) The student is readily identifiable as a student to the person;

(III) Before the student performs the practice massage, the applicant obtains a written statement signed by the person acknowledging that he or she knows that the massage is to be performed by a student; and

(IV) The applicant has obtained adequate liability insurance for the term of its license.

2. The Commission will not approve a program of instruction in massage that is to be delivered using distance education.

Sec. 2. Chapter 640C of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 19, inclusive, of this regulation.

Sec. 3. 1. *“Clinical instruction” means the practice of massage therapy, reflexology or structural integration on members of the public in a clinical setting.*

2. As used in this section:

(a) “Members of the public” includes, without limitation, students in a program of massage therapy, reflexology or structural integration, licensees and members of the Board.

(b) “Clinical setting” means a space that functions for educational purposes where there is the practice of client intake, evaluation of a student practicing massage therapy, reflexology or structural integration and the taking of notes concerning the treatment of a client.

Sec. 4. *In addition to any examination described in NAC 640C.050, an applicant for a license to practice massage therapy, reflexology or structural integration must take and pass an examination administered by the Board.*

Sec. 5. 1. *Except as otherwise provided in subsection 2, the licensing requirement in this State to successfully complete a program of massage therapy, reflexology or structural integration is substantially equivalent to a licensing requirement of another state, territory or possession of the United States or the District of Columbia requiring completion of a program of massage therapy, reflexology or structural integration, if:*

(a) For massage therapy, the other jurisdiction requires a minimum of 550 hours of training in a program of massage therapy;

(b) For reflexology:

(1) The other jurisdiction requires a minimum of 200 hours of training in a program of reflexology; or

(2) The applicant completed an International Therapy Examination Council (ITEC) diploma program in reflexology; or

(c) For structural integration, the other jurisdiction requires a minimum of 730 hours of training in a program of structural integration.

2. *If an applicant who holds a license to practice massage therapy, reflexology or structural integration issued by another state, territory or possession of the United States or the District of Columbia:*

(a) Was licensed in another state, territory or possession of the United States or the District of Columbia on or before the date that the last person was licensed under a grandfather clause in this State; and

(b) Has continuously maintained active licensure in the other jurisdiction since the initial date that the applicant was licensed in the other jurisdiction,

↳ the Board will deem the licensing requirements concerning the educational requirements for licensure in this State to be substantially equivalent to those of the other jurisdiction regardless of the number of hours required in the other jurisdiction to complete a program for massage therapy, reflexology or structural integration or the number of hours required in an apprenticeship program.

3. The Executive Director of the Board or his or her designee will maintain a list of jurisdictions that have program requirements for licensure that are substantially equivalent to those of this State.

Sec. 6. If a client makes a statement to a massage establishment, reflexology establishment or structural integration establishment that the client was touched inappropriately by a licensee, the holder of the certificate at the establishment to which the statement was made must:

1. Inform the client of the obligation of the establishment to report the statement to the Board pursuant to NAC 640C.093;

2. Offer to report the statement to the Board on behalf of the client;

3. Inform the client that any such report made to the Board by the holder of the certificate may include personally identifiable information of the client, including, without limitation, his or her contact information; and

4. Inform the client that if personally identifiable information is reported to the Board, the information will remain confidential, unless authorized by the client to be disclosed.

Sec. 7. 1. The Board will renew the license of an inactive holder of a license if the holder:

(a) Complies with the requirements of NRS 640C.510;

(b) Submits proof to the Board that the holder completed any requirements for continuing education that would have been mandatory had the license been active; and

(c) Takes and passes any examination required by the Board.

2. If the Board renews the license, the holder must complete at least 2 hours of instruction in continuing education concerning the topic of human trafficking within the licensing period immediately following the renewal of the license, in addition to any other requirements for continuing education.

FIRST
PARALLEL
SECTION

Sec. 8. *1. During the first licensing period, a massage therapist or structural integration practitioner must complete at least 2 hours of instruction in continuing education in topics relating to human trafficking.*

2. If the massage therapist or structural integration practitioner works or resides in a county whose population is 100,000 or more, the massage therapist or structural integration practitioner must complete the continuing education described in subsection 1 in person, unless a public health emergency has been declared by the Governor.

3. For each period of licensing, a massage therapist or structural integration practitioner must complete at least 2 hours of instruction in continuing education in topics relating to ethics. As used in this subsection, “ethics” includes, without limitation:

(a) The requirements of NRS 432B.220;

(b) The requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191;

(c) The standards of conduct for massage therapists or structural integration practitioners, including, without limitation, applicable State and federal law; and

(d) Human trafficking.

4. The Board will:

(a) Review and approve courses that satisfy the continuing education requirements described in subsections 1 and 3; and

(b) Maintain a list of courses that are approved pursuant to paragraph (a).

Sec. 9. 1. A parent or guardian of a minor child has a right to be present in the room where the minor child is receiving massage therapy, reflexology or structural integration.

2. If the parent or guardian waives his or her right to be present during the massage therapy, reflexology or structural integration, the licensee must ensure that the parent or guardian signs a waiver acknowledging that the parent or guardian has waived his or her right to be present.

3. The waiver must be signed before the minor child receives the massage therapy, reflexology or structural integration.

4. A massage establishment, reflexology establishment or structural integration establishment must maintain the waiver for at least 2 years after the minor child receives the massage therapy, reflexology or structural integration.

5. As used in this section, "minor child" means a person who has not reached the age of majority as provided in NRS 129.010 and has not been declared emancipated pursuant to NRS 129.080 to 129.140, inclusive.

Sec. 10. 1. Before using any alias, a massage therapist must disclose the alias to the Board.

2. A disclosure pursuant to subsection 1 must be made on a form prescribed by the Board.

Sec. 11. 1. Except as otherwise provided in subsection 2 and NRS 640C.757, all notices, opinions, decisions, orders or documents required to be served by the Board and all documents

required to be served by any party must be served personally or by certified mail. If service is made by mail, service is complete when a true copy of the documents, properly addressed and stamped, is deposited in the United States mail.

2. Following the entry of an appearance by an attorney for a party, all notices, opinions, decisions, orders or documents to be served thereafter upon the party must be served upon his or her attorney, and such service is for all purposes considered valid service upon the party represented.

Sec. 12. All parties to a hearing, their counsel and spectators shall conduct themselves in a respectful manner.

Sec. 13. In addition to the facts mentioned in subsection 5 of NRS 233B.123, the Board may take official notice of regulations, official reports, decisions, orders, standards or records of the Board, of any other regulatory agency of the State of Nevada or of any court of record.

Sec. 14. 1. The Board will consider petitions for declaratory orders or advisory opinions as to the applicability of a statutory provision or a regulation or decision of the Board.

2. All petitions for declaratory orders and advisory opinions must be in writing on a form prescribed by the Board.

Sec. 15. 1. Except as otherwise provided in subsection 2, upon receiving a petition for a declaratory order or an advisory opinion, the Board will place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board.

2. If the petition is received within 30 days before the next regularly scheduled meeting, the petition may be placed on the agenda for discussion at the next meeting after that meeting.

3. At the meeting described in subsection 1 or 2, the Board will consider any information relevant to the petition, including, without limitation:

(a) Testimony on the petition; and

(b) Any other evidence received.

4. The Board will then grant or deny the petition.

5. If the Board denies the petition, no further action will be taken.

Sec. 16. 1. If the Board grants a petition pursuant to subsection 4 of section 15 of this regulation, the Board will issue a declaratory order or advisory opinion, as applicable. The Chair of the Board or other presiding officer shall assign one member of the Board to write the order or opinion. Not more than 30 days after being assigned to write the order or opinion, and after reviewing comments by all other members on the issue, researching the issue and seeking the assistance of legal counsel, if necessary, the member shall submit a draft to the Board. Upon completion of the draft, the assigned member shall submit the draft to the Board for approval at the next regularly scheduled meeting of the Board. To be issued as a final declaratory order or advisory opinion of the Board, the draft of the order or opinion must be approved by a majority of the members of the Board who are present at the meeting.

2. After the Board renders its declaratory order or advisory opinion, the Board will notify the petitioner.

Sec. 17. The petitioner shall comply with the provisions of the declaratory order or advisory opinion rendered by the Board.

Sec. 18. 1. Pursuant to NRS 233B.100, any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation.

2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Board and include:

(a) The name and address of the petitioner;

(b) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;

(c) The proposed language of the regulation to be adopted, filed or amended or the existing language of the regulation to be repealed, as applicable;

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation; and

(e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.

3. The Board may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.

4. The Board will notify the petitioner in writing of the Board's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Board approves the petition, the Board will initiate regulation-making proceedings concerning the regulation within 30 days after the date on which the petitioner filed the petition.

Sec. 19. *1. A person wishing to apply for a license to practice massage therapy, reflexology or structural integration may petition the Board to review his or her criminal history to determine if the criminal history would disqualify the petitioner from being licensed by the Board.*

2. The petition must be completed on a form prescribed by the Board.

3. The Board will complete a background check of the petitioner in addition to reviewing the information contained in the petition.

4. Not later than 90 days after receiving the completed petition, the Board will inform the petitioner of whether the criminal history will disqualify the petitioner from being licensed by the Board.

Sec. 20. NAC 640C.001 is hereby amended to read as follows:

640C.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 640C.005 to 640C.025, inclusive, *and section 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 21. NAC 640C.050 is hereby amended to read as follows:

640C.050 1. For the purposes of paragraph (c) of subsection 2 of NRS ~~640C.400,~~ *640C.580*, an applicant for a license to practice massage therapy must pass:

(a) The National Certification Examination for Therapeutic Massage administered by the National Certification Board for Therapeutic Massage and Bodywork;

(b) The National Certification Examination for Therapeutic Massage and Bodywork administered by the National Certification Board for Therapeutic Massage and Bodywork;

(c) The National Examination for State Licensing administered by the National Certification Board for Therapeutic Massage and Bodywork;

(d) The Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards; or

(e) The ITEC Examination administered by the International Therapy Examination Council.

2. For the purposes of paragraph (c) of subsection 2 of NRS 640C.600, an applicant for a license to practice reflexology must pass:

(a) The certification exam administered by the American Reflexology Certification Board;

(b) The certification exam administered by the International Institute of Reflexology;

(c) The certification in reflexology exam administered by the International Therapy Examination Council; or

(d) The Board Certification Exam (BCETMB) administered by the National Certification Board for Therapeutic Massage and Bodywork.

3. For the purposes of paragraph (c) of subsection 2 of NRS 640C.620, an applicant for a license to practice structural integration must pass the certification exam for structural integration administered by the Certification Board for Structural Integration.

Sec. 22. NAC 640C.052 is hereby amended to read as follows:

640C.052 The Board will recognize a program of massage therapy pursuant to paragraph (b) of subsection 3 of NRS ~~640C.400,~~ 640C.580, if the program requires its pupils to complete a minimum of 550 hours of instruction in the following courses before receiving a certificate evidencing successful completion of the program:

1. At least 125 hours of instruction in the body's systems, including, without limitation, anatomy, physiology and kinesiology;

2. At least 220 hours of instruction which is taken in a classroom setting with hands-on instruction in assessment, theory and application instruction, which must include at least 80 hours in clinical instruction;

3. At least 40 hours of instruction in pathology;

4. At least 40 hours of instruction in business or ethics or a combined total of at least 40 hours of instruction in business and ethics; and

5. At least 125 hours of instruction in other courses of massage therapy in a classroom setting with hands-on instruction.

Sec. 23. NAC 640C.055 is hereby amended to read as follows:

640C.055 The Board will recognize a program of reflexology pursuant to paragraph (b) of subsection 3 of NRS 640C.600, if the program ~~requires~~ :

1. Requires its pupils to complete a minimum of 200 hours of instruction in the following courses before receiving a certificate evidencing successful completion of the program:

~~1-1~~ (a) At least 25 hours of instruction in reflexology theory, history, zones, meridians and relaxation response;

~~1-2~~ (b) At least 40 hours of instruction in body systems relating to reflexology, including, without limitation, a study of the leg and foot as a structure, hands-on palpation of landmarks with sensory identification of palpated areas, and a map of reflexes;

~~1-3~~ (c) At least 30 hours of instruction in anatomy and physiology;

~~1-4~~ (d) At least 15 hours of instruction in business or ethics or a combined total of at least 15 hours of instruction in business and ethics; and

~~1-5~~ (e) At least 90 hours of instruction in supervised practicum or clinical ~~work~~ *instruction; or*

2. Is an International Therapy Examination Council (ITEC) diploma in reflexology.

Sec. 24. NAC 640C.060 is hereby amended to read as follows:

640C.060 1. If an applicant for a license to practice massage therapy, reflexology or structural integration who otherwise satisfies the requirements of NRS ~~640C.400,~~ 640C.420, *640C.580*, 640C.600, 640C.610, 640C.620 or 640C.630 wishes the Board to recognize a program of massage therapy, reflexology or structural integration other than a program listed in paragraph (a) of subsection 3 of NRS ~~640C.400,~~ *640C.580*, paragraph (a) of subsection 3 of NRS 640C.600 or paragraph (a) of subsection 3 of NRS 640C.620, as applicable, the applicant

must submit to the Board a detailed outline of the training of the applicant that includes, without limitation:

- (a) A list of the instructors of the training;
- (b) Any texts used as study guides for the training; and
- (c) Certificates of completion for the training which evidence that the applicant has satisfied the number of training hours required by the Commission on Postsecondary Education for a program of massage therapy, reflexology or structural integration.

2. Where practicable, a request for recognition of a program of massage therapy, reflexology or structural integration made pursuant to this section will be considered by the Board at the next regularly scheduled meeting of the Board immediately following the receipt of the request.

Sec. 25. NAC 640C.075 is hereby amended to read as follows:

640C.075 1. The Board may issue a license to an applicant and immediately place the licensee on probation pursuant to NRS 640C.710 if the application or background of the applicant demonstrates that the applicant has committed one or more of the acts described in NRS 640C.700.

2. The terms of probation imposed pursuant to subsection 1 may require the licensee to:
- (a) Report to the Board all contact with law enforcement personnel within 48 hours after such contact occurs;
 - (b) Refrain from providing outcall services;
 - (c) Submit employment offers to the staff of the Board for review and approval;
 - (d) Notify the Board of any changes in his or her employment;
 - (e) Complete an ethics course within 90 calendar days after the issuance of the license;

(f) Submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report upon renewal of his or her license;

(g) Attend a probation orientation;

(h) Take any other action that the Board deems appropriate; or

(i) Take any combination of the actions set forth in paragraphs (a) to (h), inclusive.

3. As used in this section, “outcall services” means massage therapy, reflexology or structural integration provided for compensation by a massage therapist, reflexologist or structural integration practitioner in a location other than at the address set forth in the business license of the massage establishment, reflexology establishment or structural integration establishment.

Sec. 26. NAC 640C.083 is hereby amended to read as follows:

640C.083 1. A person shall not operate a massage establishment, a reflexology establishment or a structural integration establishment unless the person holds a valid certificate to operate a massage establishment, a reflexology establishment or a structural integration establishment, as applicable, which has been issued by the Board.

2. To obtain a certificate, an applicant for a certificate must ~~submit~~:

(a) Submit a completed application for the applicable certificate on a form prescribed by the Board ~~and~~;

(b) Pay the fee set forth in NAC 640C.095 ~~H~~; ***and***

(c) Comply with any other requirements of this chapter and chapter 640C of NRS.

3. The application must include, without limitation:

(a) A copy of the state business license of the applicant;

(b) A copy of any business license or conditional business license of the applicant issued by a local government;

(c) A list of services that the applicant wishes to provide to clients; and

(d) A photograph of the entrance of the establishment.

4. The Board will issue a certificate to an applicant who complies with the requirements of ~~this chapter and chapter 640C of NRS.~~

~~—3.—~~ *subsection 2, if the applicant has not been:*

(a) Convicted of advancing prostitution pursuant to NRS 201.395;

(b) Except as otherwise provided in paragraph (a), arrested or convicted for any offense involving pandering, prostitution, human trafficking or trafficking in controlled substances;

or

(c) Previously cited by the Board for facilitating unlicensed activities.

5. A certificate is valid for 1 year after the first day of the first calendar month immediately following the date of issuance or renewal and may be renewed if, before the certificate expires, the holder of the certificate ~~submits~~ :

(a) Submits to the Board a completed application for renewal on a form prescribed by the Board ~~and the~~ ;

(b) Pays the fee set forth in NAC 640C.095 ~~H~~ ;

(c) Complies with any other requirements of this chapter and chapter 640C of NRS; and

(d) Has not been arrested, convicted or cited, as applicable, in the manner described in subsection 4.

Sec. 27. NAC 640C.090 is hereby amended to read as follows:

640C.090 **1.** A licensee or a holder of a certificate shall ~~notify~~ *report to* the Board in writing within 10 business days after:

~~1.1~~ **(a)** An action is taken against any license, certification, registration or other credential relating to the practice of massage therapy, reflexology or structural integration that is held by the licensee or holder of a certificate and was issued by another jurisdiction;

~~1.2~~ **(b)** *A licensee or holder of a certificate is arrested in any jurisdiction;*

(c) A criminal charge is filed in any jurisdiction against the licensee or holder of the certificate;

~~1.3~~ **(d)** The licensee or holder of a certificate is convicted of a criminal offense in any jurisdiction, other than a *minor* traffic offense ~~which is a misdemeanor;~~

~~4.1~~ *as defined in NRS 62A.220;*

(e) A civil action for malpractice is filed in any jurisdiction against the licensee or holder of a certificate; ~~or~~

~~5.1~~ **(f)** A settlement or judgment is entered in any civil action for malpractice, in any case filed in any jurisdiction against the licensee or holder of a certificate for any act relating to the practice of massage therapy, reflexology or structural integration, as applicable ~~1.1~~; *or*

(g) *The issuance of an extended order for protection against domestic violence, stalking or harassment, or its equivalent, by any jurisdiction.*

2. *The Executive Director of the Board or his or her designee:*

(a) *Shall review any report made pursuant to subsection 1 and may initiate an investigation concerning the report; and*

(b) *May require the licensee or holder of a certificate to provide additional information concerning a report made pursuant to subsection 1.*

3. A licensee or holder of a certificate who fails to make a report pursuant to subsection 1 or fails to provide additional information pursuant to subsection 2 is subject to disciplinary action by the Board.

Sec. 28. NAC 640C.095 is hereby amended to read as follows:

640C.095 The Board will charge and collect the following nonrefundable fees:

- 1. *For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application was submitted by paper copy..... \$130*
- 2. For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner , *where the application was submitted through the Internet website of the Board..... \$100*
- ~~12.~~ 3. For issuing a license as a massage therapist, a reflexologist or a structural integration practitioner..... \$295
- ~~13.~~ 4. For issuing a temporary license..... \$250
- ~~14.~~ 5. For conducting a background check..... \$85
- 6. *For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application for renewal was submitted by paper copy..... \$325*
- ~~15.~~ 7. For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner , *where the application for renewal was submitted through the Internet website of the Board..... \$295*
- ~~16.~~ 8. For restoring an expired license\$25 per each expired month,

not to exceed \$500

~~7.7~~ 9. For reinstatement of a suspended or revoked license..... \$500

~~8.8~~ 10. For issuing a replacement license..... \$50

~~9.9~~ 11. For restoring an inactive license..... \$295

12. For reissuance of a certificate for a massage establishment, reflexology establishment or structural integration establishment..... \$25

13. For a petition submitted to the Board for review of criminal history..... \$50

~~10.1~~ 14. For issuing a certificate for a massage establishment or a structural integration establishment:

(a) For an establishment with a single room for massage therapy or structural integration..... no fee

(b) For an establishment with at least 2 but not more than 7 rooms for massage therapy or structural integration..... \$15

(c) For an establishment with at least 8 but not more than 20 rooms for massage therapy or structural integration..... \$25

(d) For an establishment with at least 21 but not more than 40 rooms for massage therapy or structural integration..... \$35

(e) For an establishment with more than 40 rooms for massage therapy or structural integration..... \$50

~~11.1~~ 15. For the renewal of a certificate for a massage establishment or a structural integration establishment:

- (a) For an establishment with a single room for massage therapy or structural integration no fee
- (b) For an establishment with at least 2 but not more than 7 rooms for massage therapy or structural integration \$15
- (c) For an establishment with at least 8 but not more than 20 rooms for massage therapy or structural integration \$25
- (d) For an establishment with at least 21 but not more than 40 rooms for massage therapy or structural integration \$35
- (e) For an establishment with more than 40 rooms for massage therapy or structural integration \$50

~~12.~~ **16.** For issuing a certificate for a massage establishment that does not have rooms for massage therapy:

- (a) For an establishment with not more than 10 chairs or tables for massage therapy \$20
- (b) For an establishment with more than 10 chairs or tables for massage therapy \$40

~~13.~~ **17.** For the renewal of a certificate for a massage establishment that does not have rooms for massage therapy:

- (a) For an establishment with not more than 10 chairs or tables for massage therapy \$20
- (b) For an establishment with more than 10 chairs or tables for massage therapy \$40

~~14.~~ **18.** For issuing a certificate for a reflexology establishment:

(a) For an establishment with not more than 10 chairs or tables for reflexology \$20

(b) For an establishment with more than 10 chairs or tables for reflexology \$40

~~H5.1~~ 19. For renewal of a certificate for a reflexology establishment:

(a) For an establishment with not more than 10 chairs or tables for reflexology \$20

(b) For an establishment with more than 10 chairs or tables for reflexology \$40

SECOND
PARALLEL
SECTION

Sec. 29. NAC 640C.095 is hereby amended to read as follows:

640C.095 The Board will charge and collect the following nonrefundable fees:

1. For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application was submitted by paper copy \$130

2. For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application was submitted through the Internet website of the Board..... \$100

3. For issuing a license as a massage therapist, a reflexologist or a structural integration practitioner..... \$295

4. For issuing a temporary license \$250

5. For conducting a background check \$85

- 6. For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application for renewal was submitted by paper copy\$325
- 7. For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner, where the application for renewal was submitted through the Internet website of the Board.....\$295
- 8. For restoring an expired license \$25 per each
expired month,
not to exceed \$500
- 9. For reinstatement of a suspended or revoked license.....\$500
- 10. For issuing a replacement license\$50
- 11. For restoring an inactive license\$295
- 12. *For an examination administered by the Board pursuant to section 4 of this regulation.....\$50*
- 13. For reissuance of a certificate for a massage establishment, reflexology establishment or structural integration establishment\$25
- ~~13.~~ 14. For a petition submitted to the Board for review of criminal history\$50
- ~~14.~~ 15. For issuing a certificate for a massage establishment or a structural integration establishment:
 - (a) For an establishment with a single room for massage therapy or structural integrationno fee

- (b) For an establishment with at least 2 but not more than 7 rooms for
massage therapy or structural integration\$15
- (c) For an establishment with at least 8 but not more than 20 rooms for
massage therapy or structural integration\$25
- (d) For an establishment with at least 21 but not more than 40 rooms for
massage therapy or structural integration\$35
- (e) For an establishment with more than 40 rooms for massage therapy
or structural integration.....\$50

~~15.1~~ **16.** For the renewal of a certificate for a massage establishment or
a structural integration establishment:

- (a) For an establishment with a single room for massage therapy or
structural integrationno fee
- (b) For an establishment with at least 2 but not more than 7 rooms for
massage therapy or structural integration\$15
- (c) For an establishment with at least 8 but not more than 20 rooms for
massage therapy or structural integration\$25
- (d) For an establishment with at least 21 but not more than 40 rooms for
massage therapy or structural integration\$35
- (e) For an establishment with more than 40 rooms for massage therapy
or structural integration.....\$50

~~16.1~~ **17.** For issuing a certificate for a massage establishment that does
not have rooms for massage therapy:

(a) For an establishment with not more than 10 chairs or tables for
massage therapy\$20

(b) For an establishment with more than 10 chairs or tables for massage
therapy.....\$40

~~17.~~ **18.** For the renewal of a certificate for a massage establishment
that does not have rooms for massage therapy:

(a) For an establishment with not more than 10 chairs or tables for
massage therapy\$20

(b) For an establishment with more than 10 chairs or tables for massage
therapy.....\$40

~~18.~~ **19.** For issuing a certificate for a reflexology establishment:

(a) For an establishment with not more than 10 chairs or tables for
reflexology\$20

(b) For an establishment with more than 10 chairs or tables for
reflexology\$40

~~19.~~ **20.** For renewal of a certificate for a reflexology establishment:

(a) For an establishment with not more than 10 chairs or tables for
reflexology\$20

(b) For an establishment with more than 10 chairs or tables for
reflexology\$40

Sec. 30. NAC 640C.100 is hereby amended to read as follows:

640C.100 1. To maintain his or her licensure, a massage therapist or structural integration
practitioner must complete, to the satisfaction of the Board, at least 24 hours of instruction in

continuing education as specified in NAC 640C.110 or 640C.112, as applicable, *and section 8 of this regulation* within the licensing period immediately preceding the request for renewal of his or her license. Except as otherwise provided in subsection 2, proof of the completion of the requirement for continuing education must be submitted with an application for renewal of a license.

2. If a massage therapist or structural integration practitioner obtains more than 24 hours of instruction in continuing education in a licensing period, the massage therapist or structural integration practitioner may request that the Board carry over the excess hours of credit, not to exceed 72 hours of instruction, to apply towards completion of the requirement for continuing education set forth in subsection 1 for succeeding years, up to a maximum of ~~3~~ 6 succeeding years.

3. If a massage therapist or structural integration practitioner fails to complete the requirements for continuing education set forth in subsection 1 before the date on which his or her license expires, the Board will send a notice to the massage therapist or structural integration practitioner indicating that the massage therapist or structural integration practitioner is not in compliance with the requirements for continuing education.

Sec. 31. NAC 640C.110 is hereby amended to read as follows:

640C.110 1. The Board will approve credit for continuing education for a license to practice massage therapy as follows:

(a) One hour of credit will be approved for each hour of instruction that a massage therapist attends a workshop, course, conference or seminar relating to the practice of massage therapy which is provided by a person or entity that is:

(1) Accredited by the National Commission for Certifying Agencies, or an equivalent accrediting body approved or recognized by the Board;

(2) Approved by the National Certification Board for Therapeutic Massage and Bodywork;

(3) A massage therapy school, bodywork therapy school, public college, postsecondary institution or other entity which offers a program of massage therapy that is recognized by the Board pursuant to NRS ~~640C.400~~ 640C.580 and NAC 640C.060; or

(4) A massage therapist with at least 2 years of experience in the practice of massage therapy or a related field who has previously received approval from the Board for the workshop, course, conference or seminar.

(b) The amount of credit for authoring a publication relating to the practice of massage therapy will be determined upon receipt and evaluation by the Board of the information required to be submitted pursuant to NAC 640C.130.

(c) One hour of credit, up to a maximum of 16 hours of credit per renewal period for each activity listed in subparagraphs (1), (2) and (3), will be approved for each hour of instruction spent:

(1) Giving a presentation at a workshop, course, conference or seminar relating to the practice of massage therapy.

(2) Preparing a presentation described in subparagraph (1).

(3) Serving as a member of the Board or a member of a committee appointed by the Board or attending a meeting of the Board.

2. A massage therapist may receive credit only once for giving or preparing a presentation described in subparagraph (1) of paragraph (c) of subsection 1.

3. The Board will consider the written request of a massage therapist for approval of credit for any continuing education that is not specified in subsection 1, including credit for any continuing education that is not specifically related to massage therapy, if the request is submitted to the Board at least 90 days before the date on which the license of the massage therapist expires.

Sec. 32. NAC 640C.115 is hereby amended to read as follows:

640C.115 1. To maintain his or her license to practice reflexology, a reflexologist must complete, to the satisfaction of the Board, at least 12 hours of instruction in continuing education as specified in NAC 640C.117 within the licensing period immediately preceding the request for renewal of his or her license. Except as otherwise provided in subsection 2, proof of the completion of the requirement for continuing education must be submitted with an application for renewal of a license.

2. If a reflexologist obtains more than 12 hours of instruction in continuing education in a licensing period, the reflexologist may request that the Board carry over the excess hours of credit, not to exceed 36 hours of instruction, to apply towards completion of the requirement for continuing education set forth in subsection 1 for succeeding years, up to a maximum of ~~3~~ 6 succeeding years.

3. If a reflexologist fails to complete the requirements for continuing education set forth in subsection 1 before the date on which his or her license expires, the Board will send a notice to the reflexologist indicating that the reflexologist is not in compliance with the requirements for continuing education.

Sec. 33. NAC 640C.200 is hereby amended to read as follows:

640C.200 1. ~~1A~~ *Except as otherwise provided in subsection 2, a* massage establishment, reflexology establishment or structural integration establishment that provides vapor baths, steam baths, saunas, steam rooms, spas or portable saunas must be equipped with adequate shower facilities.

2. ~~1A~~ *If a massage establishment provides dry saunas and does not provide vapor baths, steam baths, saunas, steam rooms, spas or portable saunas, then the establishment is not required to be equipped with shower facilities.*

3. *Except as otherwise provided in subsection 5, a* massage establishment, reflexology establishment or structural integration establishment shall ensure that:

(a) All portable saunas, showers, tubs, basins, massage or steam tables, combs, brushes, shower caps and any other equipment used in the massage establishment, reflexology establishment or structural integration establishment is cleaned and rendered free from harmful organisms;

(b) Any equipment that comes in contact with a client of the massage therapist, reflexologist or structural integration practitioner is disinfected and sanitized before the equipment is used on another client;

(c) All equipment, furniture and fixtures, including, without limitation, tables used for massage, reflexology or structural integration, are clean and well maintained;

(d) All electrical equipment used for the care of a client is clean and well maintained and is listed to applicable standards and requirements by UL LLC, or approved by another nationally recognized testing laboratory; and

(e) All hydrotherapy equipment is cleaned after each use, is well maintained and is only used in the manner prescribed by the manufacturer of the equipment.

~~{3. A}~~

4. *Except as otherwise provided in subsection 5, a* massage therapist, reflexologist or structural integration practitioner shall ensure that:

(a) All portable saunas, showers, tubs, basins, massage or steam tables, combs, brushes, shower caps and any other equipment used in the massage establishment, reflexology establishment or structural integration establishment is cleaned and rendered free from harmful organisms;

(b) Any equipment that comes in contact with a client of the massage therapist, reflexologist or structural integration practitioner is disinfected and sanitized before the equipment is used on another client;

(c) All equipment, furniture and fixtures, including, without limitation, tables used for massage, reflexology or structural integration, are clean and well-maintained;

(d) All electrical equipment used for the care of a client is clean and well-maintained and is consistent with applicable standards and requirements of UL LLC, or approved by another nationally recognized testing laboratory; and

(e) All hydrotherapy equipment is cleaned after each use, is well-maintained and is only used in the manner prescribed by the manufacturer of the equipment.

~~{4.}~~ 5. *If a massage therapist, reflexologist or structural integration practitioner or a massage establishment, reflexology establishment or structural integration establishment determines that it is impracticable to disinfect or sanitize any equipment, furniture or fixture, a barrier must be placed between the client and the equipment, furniture or fixture.*

6. As used in this section ~~{, "spa"}~~:

(a) “Barrier” means an item designed to be used once before being laundered, sanitized or discarded, including, without limitation, a towel, linen or paper.

(b) “Spa” means a pool primarily designed for therapeutic use which is not drained, cleaned or refilled for each user. The term includes units which employ hydrojet circulation, hot water, cold water, mineral water or air induction bubbles or any combination thereof.

Sec. 34. NAC 640C.210 is hereby amended to read as follows:

640C.210 1. A lubricant used in the practice of massage therapy, reflexology or structural integration, including, without limitation, oil, soap, alcohol, powder, lotion, shampoo and salts, must be:

(a) Dispensed from a suitable container that prevents contamination; and

(b) Stored:

(1) Separately from cleaning supplies; and

(2) In a manner that prevents contamination and preserves the integrity of the lubricant.

2. A massage therapist, reflexologist or structural integration practitioner shall ~~sanitize~~ :

(a) Sanitize a container used to dispense a lubricant:

~~(a)~~ (1) Between each client; and

~~(b)~~ (2) Each time before the massage therapist, reflexologist or structural integration practitioner refills the container ~~;~~ *and*

(b) Ensure that there are no contraindications before using a lubricant or topical application on a client.

3. A massage therapist or structural integration practitioner may use spa treatments, muds and body wraps while practicing massage therapy if the massage therapist or structural

integration practitioner considers and follows sanitary procedures in his or her use of those materials.

Sec. 35. NAC 640C.220 is hereby amended to read as follows:

640C.220 1. A massage establishment, reflexology establishment or structural integration establishment shall ensure that *the establishment effectively excludes insects, rodents and other vermin, by, without limitation, ensuring that* each exterior door and window in ~~a massage establishment, reflexology establishment or structural integration~~ *the* establishment ~~must be~~ *is* tight-fitting and ~~must~~ effectively ~~exclude~~ *excludes* insects, rodents and other vermin.

2. The walls, ceilings and floors in a massage establishment, reflexology establishment or structural integration establishment must be well maintained and kept clean.

3. The floors of a room in a massage establishment, reflexology establishment or structural integration establishment that contains a toilet must be made of an impervious material that is nonporous or nonabsorbent.

Sec. 36. NAC 640C.230 is hereby amended to read as follows:

640C.230 1. A room in which massage therapy, reflexology or structural integration is practiced must:

- (a) ~~Be designed to provide privacy for the client;~~
- ~~(b)~~ Have the capability of maintaining the air temperature in the room at 75 degrees Fahrenheit at a point 24 inches above the floor;
- ~~(e)~~ (b) Have sufficient ventilation and circulation to prevent objectionable odors; and
- ~~(d)~~ (c) Have lighting fixtures which are capable of providing a minimum of 5 foot-candles of light at the floor level. Such lighting fixtures must be used when any cleaning operations are conducted in the room.

2. *In addition to the requirements set forth in subsection 1, a room in which massage therapy or structural integration is practiced must:*

(a) Be designed to provide privacy for the client; and

(b) Have sufficient space on each side of the massage or structural integration table to allow the massage therapist, structural integration practitioner or client to adequately move around the table.

3. A room in which massage therapy, reflexology or structural integration is practiced must not be used simultaneously for massage therapy, reflexology or structural integration and any domestic *or dwelling* purposes. *If a licensee works out of his or her home, the room in which the massage therapy, reflexology or structural integration is practiced must be separate from any room used for domestic or dwelling purposes.*

4. *Massage therapy, reflexology and structural integration, or any combination thereof, must not be practiced simultaneously in the same room unless the room is located at a fair, festival or exhibit in this State.*

5. *Except as otherwise provided in this section, a room in which massage therapy, reflexology or structural integration is practiced must not contain surveillance equipment, including, without limitation, any device or medium used to record, by audio or visual means, the massage therapy, reflexology or structural integration.*

6. *If a room in which massage therapy, reflexology or structural integration is practiced contains a computer, any camera on the computer must be covered and the monitor of the computer must not be visible to the licensee while a client is present in the room.*

7. *A licensee may use a tablet for purposes which include, without limitation, reviewing client notes or keeping time, so long as the tablet is not used for surveillance purposes.*

8. Subsection 5 shall not be construed to:

(a) Apply to any device or medium owned or operated by a client or other person who is not the licensee or the massage establishment, reflexology establishment or structural integration establishment; or

(b) Relieve the licensee or massage establishment, reflexology establishment or structural integration establishment from the obligation to comply with any provision of law or regulation requiring surveillance in a room in which massage therapy, reflexology or structural integration is practiced.

9. This section shall not be construed to prohibit law enforcement from conducting a lawful investigation.

Sec. 37. NAC 640C.260 is hereby amended to read as follows:

640C.260 1. A massage establishment, reflexology establishment or structural integration establishment must have an adequate supply of hot and cold running water that is safe and sanitary. ***The hot water must be delivered at a minimum temperature of 100 degrees Fahrenheit.***

2. The interior piping in a water distribution system in a massage establishment, reflexology establishment or structural integration establishment must be installed and maintained in compliance with any applicable local building codes or ordinances prescribing standards for plumbing.

Sec. 38. NAC 640C.270 is hereby amended to read as follows:

640C.270 1. If a bathing facility other than a shower is used in a massage establishment, reflexology establishment or structural integration establishment, the bathing facility must:

(a) Have floors that are slip-resistant, easily cleaned and coved to a height of 4 inches;

(b) If an artificial surface made from resilient materials is used for the floor, be vacuumed with a wet vacuum frequently, to keep the floor clean and free from accumulated moisture;

(c) Have interior walls and ceiling finishes which are easily cleaned and are impervious to water; and

(d) If there is more than one bathing facility, be separated by a nonporous, nonabsorbent floor.

2. A massage establishment, reflexology establishment or structural integration establishment *or the holder of a certificate* shall ensure that:

(a) An effective watertight joint between the wall and the floor is maintained in a bathing facility that is used in a massage establishment, reflexology establishment or structural integration establishment; and

(b) Any rubber or impervious mats that are used in the bathing facility are cleaned, sanitized and dried between uses.

3. If a shower is provided in a massage establishment, reflexology establishment or structural integration establishment, the shower must:

(a) Have compartments which are impervious to water to a height of 6 feet above the floor;

(b) Have a floor that is furnished with a nonslip impervious surface; and

(c) Have tempered glass or acrylic glass doors if the doors are made of glass or a substitute for glass.

4. A massage establishment, reflexology establishment or structural integration establishment shall ensure that all bathing facilities provided for use in the massage establishment, reflexology establishment or structural integration establishment satisfy the requirements of chapters 444 of NRS and NAC.

5. As used in this section:

(a) “Bathing facility” includes, without limitation, a spa, shower, *table shower, Vichy shower*, bathtub, *balneotherapy tub*, sauna and steam bath.

(b) “Spa” means a pool primarily designed for therapeutic use which is not drained, cleaned or refilled for each user. The term includes units which employ hydrojet circulation, hot water, cold water, mineral water or air induction bubbles, or any combination thereof.

Sec. 39. NAC 640C.337 is hereby amended to read as follows:

640C.337 **1.** Each massage establishment, reflexology establishment and structural integration establishment must ~~provide to the Board~~ *maintain* a list of each licensee employed by or working in the establishment ~~on or before July 1 of each year.~~, *including, without limitation, a list of any nicknames, preferred names and aliases used by a licensee.*

2. The list must be provided:

(a) Upon request to the Executive Director of the Board or his or her designee; and

(b) To any representative of the Board conducting an inspection of the establishment.

Sec. 40. NAC 640C.350 is hereby amended to read as follows:

640C.350 Any advertisement ~~for the practice of massage therapy must~~ *of a licensee:*

1. Must include the license number of the massage therapist, *reflexologist or structural integration practitioner* to which the advertisement pertains ~~+~~; *and*

2. Must not:

(a) Depict the licensee, or an unlicensed person portraying a massage therapist, reflexologist or structural integration practitioner, in a way that is inconsistent with this chapter or chapter 640C of NRS, including, without limitation, by showing the licensee or unlicensed person as:

(1) Engaging in a sexual activity as interpreted in NAC 640C.400; or

(2) Failing to comply with the clothing requirements set forth in NAC 640C.250; and

(b) Be published on any platform which promotes sexual or illicit activity.

Sec. 41. NAC 640C.360 is hereby amended to read as follows:

640C.360 1. A ~~massage therapist,~~ *licensee* shall have sufficient knowledge of communicable diseases to protect the clients of the ~~massage therapist,~~ *licensee* and the ~~massage therapist,~~ *licensee* from the transmission of such a disease while engaging in massage therapy ~~;~~, *reflexology or structural integration.*

2. If a ~~massage therapist,~~ *licensee* has reason to suspect that an employee who assists the ~~massage therapist,~~ *licensee* with massage therapy , *reflexology or structural integration* or a client of the ~~massage therapist,~~ *licensee* may have a communicable disease, the ~~massage therapist,~~ *licensee* shall:

(a) Recommend to the client that the client be examined by a licensed health care provider.

(b) Request that the employee be examined by a licensed health care provider.

3. An employee who has been requested to be examined by a health care provider pursuant to subsection 2 must present a written statement from a licensed health care provider verifying that the employee is in compliance with the guidelines for prevention, suppression and control of communicable diseases set forth in chapter 441A of NAC before the employee may resume employment with the massage therapist.

4. A ~~massage therapist,~~ *licensee* and any person who works in a massage establishment , *reflexology establishment or structural integration establishment* and who is exposed as part of his or her employment to any bloodborne pathogens or bodily fluids shall practice universal precautions as described in 29 C.F.R. § 1910.1030(d).

Sec. 42. NAC 640C.400 is hereby amended to read as follows:

640C.400 As used in subsection 4 of NRS 640C.700, the Board interprets the phrase “sexual activity” to include, without limitation:

1. Sexual intercourse;
2. Examining or touching the genitals, anus or any sexualized body part except as otherwise provided in subsection 4 of NRS 640C.700;
3. *Touching a client without his or her consent beneath the underwear or other clothing that the client elects to wear;*
4. Rubbing against a client for sexual gratification;
- ~~4.~~ 5. Kissing;
- ~~5.~~ 6. Hugging, touching, fondling or caressing of a romantic or sexual nature;
- ~~6.~~ 7. Not allowing a client privacy to dress or undress except as may be necessary in a medical emergency or custodial situation;
- ~~7.~~ 8. Not providing a client a gown or draping except as may be necessary in a medical emergency;
- ~~8.~~ 9. Removing the client’s clothing or gown or draping without consent, except as may be necessary in a medical emergency or in a custodial setting;
- ~~9.~~ 10. Encouraging masturbation or any other sex act in the presence of the massage therapist, reflexologist or structural integration practitioner;
- ~~10.~~ 11. Dressing or undressing in the presence of the client;
- ~~11.~~ 12. Masturbation or any other sex act by the massage therapist, reflexologist or structural integration practitioner in the presence of the client;

- ~~12.~~ 13. Suggesting or discussing the possibility of dating or beginning a sexual or romantic relationship before the professional relationship ends;
- ~~13.~~ 14. Terminating the professional relationship with the client for the purpose of dating or pursuing a romantic or sexual relationship;
- ~~14.~~ 15. Discussing the sexual history, preference or fantasies of the massage therapist, reflexologist or structural integration practitioner;
- ~~15.~~ 16. Any behavior, gesture or expression that may reasonably be interpreted as seductive or sexual;
- ~~16.~~ 17. Making statements regarding the client's body, appearance, sexual history or sexual orientation other than for legitimate health care purposes;
- ~~17.~~ 18. Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a client;
- ~~18.~~ 19. Photographing or filming the body or any body part of a client *or licensee, including, without limitation, the genitalia or breasts*, other than for legitimate health care purposes; ~~and~~
- ~~19.~~ 20. Showing a client sexually explicit photographs other than for legitimate health care purposes ~~1~~;
- 21. Publishing or otherwise sharing any photograph or film described in subsection 19; and*
- 22. An arrest within the immediately preceding 15 years for any offense related to solicitation, pandering, prostitution or human trafficking.*

Sec. 43. NAC 640C.410 is hereby amended to read as follows:

640C.410 1. As used in subsection 9 of NRS 640C.700, the Board interprets the ~~phrase~~ *“unethical or unprofessional” phrases:*

(a) “Unethical conduct” to include, without limitation ~~(1)~~, any of the following conduct that occurred outside the course and scope of the practice of massage therapy, reflexology or structural integration:

(1) Aiding, abetting or assisting any person in performing any act prohibited by law.

(2) Performing any act prohibited by law.

(b) “Unprofessional conduct” to include, without limitation, any of the following conduct that occurred in the course and scope of the practice of massage therapy, reflexology or structural integration:

~~(a)~~ *(1)* Offering to practice massage therapy, reflexology or structural integration on a client in exchange for sexual favors.

~~(b)~~ *(2)* Using health care information to contact a client for the purpose of engaging in a sexual activity with the client.

~~(c)~~ *(3)* Using health care information or access to health care information to meet or attempt to meet the sexual needs of the massage therapist, reflexologist or structural integration practitioner.

~~(d)~~ *(4)* Performing acts beyond the scope of the practice of massage therapy, reflexology or structural integration.

~~(e)~~ *(5)* Assuming duties and responsibilities within the practice of massage therapy, reflexology or structural integration without adequate training.

~~(f)~~ (6) Assuming duties and responsibilities within the practice of massage therapy, reflexology or structural integration if competency is not maintained or the standards of competence are not satisfied, or both.

~~(g)~~ (7) Disclosing the contents of the examination for licensure or certification, or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.

~~(h)~~ (8) Assigning or delegating functions, tasks or responsibilities of licensed or certified persons to unqualified persons.

~~(i)~~ (9) Failing to supervise a person to whom functions of massage therapy, reflexology or structural integration are delegated or assigned, if responsible for supervising the person.

~~(j)~~ (10) Failing to safeguard a client from the incompetent, abusive or illegal practice of any person during the practice of massage therapy, reflexology or structural integration.

~~(k)~~ (11) Practicing massage therapy, reflexology or structural integration while, with or without good cause, the physical, mental or emotional condition of the massage therapist, reflexologist or structural integration practitioner impairs his or her ability to act in a manner consistent with established or customary standards of the practice of massage therapy, reflexology or structural integration, as applicable.

~~(l)~~ (12) Practicing massage therapy, reflexology or structural integration, if any amount of alcohol or a controlled substance or dangerous drug that is not legally prescribed is present in the body of the massage therapist, reflexologist or structural integration practitioner.

~~(m)~~ (13) Failing to respect and maintain a client's right to privacy.

~~(n)~~ (14) Performing or offering to perform the functions of a licensee or holder of a certificate by false representation or under a false or assumed name.

~~(e)~~ (15) Soliciting or borrowing money, materials or other property, or any combination thereof, from a:

~~(1)~~ (I) Client; or

~~(2)~~ (II) Family member of a client.

~~(f)~~ (16) Aiding, abetting or assisting any person in performing any acts prohibited by law.

~~(g)~~ (17) Failing to abide by any state or federal statute or regulation relating to the practice of massage therapy, reflexology or structural integration.

~~(h)~~ (18) Engaging in sexual contact with a client.

~~(i)~~ (19) Failing to report the unauthorized practice of massage therapy, reflexology or structural integration.

~~(j)~~ (20) Endangering the safety of the general public, clients or coworkers by making actual or implied threats of violence or carrying out an act of violence.

~~(k)~~ (21) Abusing a client.

~~(l)~~ (22) Misappropriating the property of a client.

~~(m)~~ (23) Failing to comply with a condition, limitation or restriction which has been placed on the license of the massage therapist, reflexologist or structural integration practitioner, or the certificate of the massage establishment, reflexology establishment or structural integration establishment.

~~(n)~~ (24) Engaging in the practice of massage therapy, reflexology or structural integration without a license issued pursuant to the provisions of this chapter and chapter 640C of NRS.

~~(o)~~ (25) Displaying a license, certificate, diploma or permit, or a copy of a license, certificate, diploma or permit, which has been fraudulently purchased, issued, counterfeited or materially altered.

~~{(z)}~~ (26) Engaging in a pattern of conduct that demonstrates failure to exercise the knowledge, skills and abilities to use the methods ordinarily exercised by a reasonable and prudent massage therapist, reflexologist or structural integration practitioner to protect the public.

~~{(aa)}~~ (27) Failing to cooperate with an investigation or inspection conducted by the Board.

~~{(bb)}~~ (28) Engaging in any other unprofessional conduct with a client that the Board determines is outside the professional boundaries generally considered acceptable in the profession.

(29) Advertising in a manner that is inconsistent with this chapter or chapter 640C of NRS.

2. When evaluating whether a massage therapist, reflexologist or structural integration practitioner is prohibited from engaging or attempting to engage in a sexual activity with a client or former client, the Board will consider, without limitation:

(a) Documentation of a formal termination of the professional relationship between the massage therapist, reflexologist or structural integration practitioner and the client or former client;

(b) The transfer of care of the client or former client from the massage therapist, reflexologist or structural integration practitioner to another massage therapist, reflexologist or structural integration practitioner, as applicable;

(c) The duration of the professional relationship between the massage therapist, reflexologist or structural integration practitioner and the client or former client;

(d) The amount of time that has passed since the last services related to the practice of massage therapy, reflexology or structural integration were provided to the client or former client by the massage therapist, reflexologist or structural integration practitioner;

(e) The communication between the massage therapist, reflexologist or structural integration practitioner and the client or former client after the last services related to the practice of massage therapy, reflexology or structural integration were provided to the client or former client and before the commencement of the personal relationship;

(f) The extent to which the personal or private information of the client or former client was shared with the massage therapist, reflexologist or structural integration practitioner;

(g) The nature of the health condition of the client or former client, if any, during the professional relationship between the massage therapist, reflexologist or structural integration practitioner and the client or former client and after that professional relationship ended;

(h) The extent of emotional dependence of the client or former client on the massage therapist, reflexologist or structural integration practitioner, if any, and the vulnerability of the client or former client; and

(i) The standard cycle for revisiting a massage therapist, reflexologist or structural integration practitioner as determined by the Board.

Sec. 44. NAC 640C.450 is hereby amended to read as follows:

640C.450 1. The Board adopts the following schedule of administrative fines for any administrative citation issued pursuant to NRS 640C.755:

Violation	First Violation	Second Violation	Third or Subsequent Violation
MESSAGE THERAPIST, REFLEXOLOGIST OR STRUCTURAL INTEGRATION PRACTITIONER			
Practicing with an expired license	\$200	\$500	\$1,000
Failure to display license in a conspicuous manner as required by NRS 640C.450.....	200	500	1,000
Using advertisements which contain knowingly false or deceptive statements.....	500	1,500	2,500
Altering a license	1,000	3,000	5,000
Advertising without a license number on advertisement	100	250	500
<i>Advertising in a manner inconsistent with this chapter or chapter 640C of NRS</i>	<i>1,000</i>	<i>2,500</i>	<i>5,000</i>
Failing to comply with NAC 640C.200 to 640C.320, inclusive.....	200	500	1,000
Failing to notify the Board of a change of his or her address as required by NAC 640C.085	100	200	500
Failing to drape a client as required by NAC 640C.340	200	500	1,000

Violation	First Violation	Second Violation	Third or Subsequent Violation
Performing reflexology on a client in violation of NAC 640C.345	200	500	1,000
Offering to perform sexual activities during the practice of massage therapy, reflexology or structural integration	1,000	2,000	5,000
<i>Practicing reflexology on a client who is not fully clothed.....</i>	<i>1,000</i>	<i>2,500</i>	<i>5,000</i>
<p>MASSAGE ESTABLISHMENTS, REFLEXOLOGY ESTABLISHMENTS OR STRUCTURAL INTEGRATION ESTABLISHMENTS</p>			
Failing to notify the Board of a change of the name or address of an establishment as required by NAC 640C.085	100	200	500
Failing to comply with NAC 640C.200 to 640C.320, inclusive.....	200	500	1,000
Operating a massage establishment, a reflexology establishment or a structural integration establishment without the applicable certificate	1,000	2,500	5,000

Violation	First Violation	Second Violation	Third or Subsequent Violation
Failure to display certificate.....	200	500	1,000
Offering to perform sexual activities	1,000	2,000	5,000
ANY PERSON			
Practicing massage therapy, reflexology or structural integration without a license or certificate.....	1,000	2,500	5,000
Copying or altering a license or certificate for the purposes of fraud, deception, misrepresentation or other illegal purpose ...	1,000	3,000	5,000
Using a copied or altered license or certificate for purposes of fraud, deception, misrepresentation or other illegal purpose ...	1,000	2,000	5,000
Offering to perform massage therapy, reflexology or structural integration without a license.....	1,000	2,000	5,000
Offering to perform sexual activities during the course of practicing massage therapy, reflexology or structural integration.....	1,000	2,000	5,000

	First Violation	Second Violation	Third or Subsequent Violation
Advertising to perform massage therapy, reflexology or structural integration without the applicable license	1,000	2,500	5,000

2. A person who violates a provision of this chapter or chapter 640C of NRS for which this section does not provide a specific fine, including, without limitation, a second or subsequent violation, may be:

- (a) Ordered to appear at a disciplinary hearing before the Board; and
- (b) Punished by the Board as set forth in NRS 640C.700.

Sec. 45. Section 8 of this regulation is hereby amended to read as follows:

1. During the first licensing period, a massage therapist or structural integration practitioner must complete at least 2 hours of instruction in continuing education in topics relating to human trafficking.

2. If the massage therapist or structural integration practitioner works or resides in a county whose population is 100,000 or more, the massage therapist or structural integration practitioner must complete the continuing education described in subsection 1 in-person, unless a public health emergency has been declared by the Governor.

3. For each period of licensing, a massage therapist or structural integration practitioner must complete at least 2 hours of instruction in continuing education in topics relating to ethics.

As used in this subsection, “ethics” includes, without limitation:

- (a) The requirements of NRS 432B.220;

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(b) The requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191;

(c) The standards of conduct for massage therapists or structural integration practitioners, including, without limitation, applicable State and federal law; and

(d) Human trafficking.

4. *For each period of licensing, a massage therapist or structural integration practitioner may take the examination described in section 4 of this regulation and if the massage therapist or structural integration practitioner passes the examination, the Board will award 2 hours of instruction in continuing education for the applicable licensing period.*

5. The Board will:

(a) Review and approve courses that satisfy the continuing education requirements described in subsections 1 and 3; and

(b) Maintain a list of courses that are approved pursuant to paragraph (a).

Sec. 46. 1. This section and sections 1, 2, 3, 5 to 28, inclusive, and 30 to 44, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Sections 4, 29 and 45 of this regulation become effective on July 1, 2022.