

PROPOSED REGULATION OF THE BOARD OF MASSAGE THERAPISTS

LCB File No. R032-11

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

AUTHORITY: NRS 640C.320.

A REGULATION relating to massage therapy related to the definition of “unethical or unprofessional conduct,” managing therapists in a massage establishment, and procedures for the restoration of an expired license.

Section 1. Section 5 of the as yet uncodified regulation designated as LCB File No. R009-07 shall be amended to read as follows:

1. ~~If an applicant for a license to practice massage therapy who otherwise satisfies the requirements of NRS 640C.400 or 640C.420, wishes the Board to recognize a program of massage therapy other than a program listed in paragraph (a) or (b) of subsection 4 of NRS 640C.400, 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.]~~ *To be recognized by the Board pursuant to subsection 4 of NRS 640C.400, a program of massage therapy shall be a program intended to teach adults the skills and knowledge necessary for the professional practice of massage and bodywork therapy. The program shall consist of a series of courses which are organized in a logical sequence, and which are consistent with the educational objectives, meaning that each class prepares*

students for the next class. Class material should not be presented unless students have the necessary skills and knowledge to utilize that material safely and effectively. Course requirements and competencies must be consistent from instructor to instructor, and to assure such consistency, teaching materials, including detailed lesson plans, must be developed and maintained for each course. Teaching methods must be appropriate to course content, and to diverse learning styles. A program may be organized as a proprietary school, which is privately owned and operated by a sole proprietor, as a partnership, as a corporation, as an association, or other private entity, or may be a post-secondary colleges or universities, whether publicly or privately owned. The program shall consist of a minimum of 500 classroom hours of instruction which must be taught in English and which must contain the following elements:

(a) 200 hours in the fundamental theory and practice of massage and bodywork therapy, which must include:

(1) A minimum of 100 hours in application of hands-on methods; and

(2) The balance of such hours devoted to client assessment skills, indications and contraindications for treatment, body mechanics, draping procedures, standard practices for hygiene and control of infectious diseases, and the history of massage and bodywork therapy;

(b) 100 hours in anatomy and physiology, which will include but is not limited to:

(1) The structure of the human body,

(2) The study of cells, tissues, bones, muscles, organ systems, histology, embryology, kinesiology, and

(3) Common pathologies;

(c) 15 hours in professional ethics, which will include:

(1) The rules for the practice of massage and bodywork therapy,

(2) Scope of practice issues, and

(3) Sanitization;

(d) 15 hours in business practices related to the field of massage and bodywork therapy;

(e) 20 hours in dynamics of the therapist/client relationships, communication skills, and boundary functions;

(f) 150 hours in other subjects related to the practice of massage and bodywork therapy other than first aid or CPR, which may include by is not limited to the following:

(1) Additional hands-on techniques,

(2) Specific applications,

(3) Spa massage,

(4) Clinical massage,

(5) Adjunctive modalities, and

(6) Movement education.

2. Where a program includes a student clinic, internship component, externship or fieldwork experiential component, up to 100 of such hours may be counted to satisfy the requirement of subsection (f) of section 1. To be counted, all such work must be [directly] supervised and evaluated by an [instructional staff member] instructor.

3. The program or one of its graduates who has filed an application for licensure with the Board may present evidence that the program satisfies the requirements of sections 1 and 2.

The evidence that must be provided to the Board must include:

(a) A set of educational objectives which describe the intended skills, knowledge, and attitudes which the program is designed to develop in the student by the completion of the program;

(b) A course curriculum which shows the basic content of each individual class in the course and the sequence in which the classes are presented;

(c) A syllabus for each class, which shall include, but not limited to:

- (1) Class title,*
- (2) Class description,*
- (3) Learning objectives,*
- (4) Total number of instructional hours,*
- (5) Meeting dates and class times,*
- (6) Assignments,*
- (7) Textbooks,*
- (8) Evaluation methods,*
- (9) Dates for quizzes and examinations, and*
- (10) Performance standards.*

4. Each program consisting of at least 500 instructional hours shall be considered a separate program.

5. For the purposes of this section, an instructional hour shall consist of at least 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of a member of the school's instructional staff. Programs shall have no more than 8 instructional hours in one day, and there shall be no more than 2 hours of instruction without a break and no more than 4 hours of instruction without a meal break. For a student to receive credit in a course, the school shall require students to attend 500 hours or no less than eighty-five (~~80~~ 85%) of the instructional hours, whichever is greater, and to make up all missed instructional hours according to the procedures established by the

school. The school shall provide documentation of the start and finish date and the attendance record for all graduates.

6. All documents presented to the board must be submitted in English, or translated into English by a Nevada state approved translator at the expense of the applicant.

7. For post-secondary institutions, courses which fulfill the minimum requirements set forth in sections 1 and 2 shall support the program in massage and bodywork therapy. Courses in addition to the minimum requirements may include courses from other departments or programs which are directly relevant to the practice of massage and bodywork therapy.

8. The program shall provide sufficient learning resources to students and instructional staff to support the educational objectives of the program, including:

(a) A library or resource center which contains books, periodicals, and other informational materials in the field of massage and bodywork therapy. As an alternative, the school may provide such books, periodical, and other information materials through electronic means or may have a contractual agreement with another facility to provide access to such resources.

(b) Other resources, such as charts, models, or videotapes, which shall be maintained in good condition.

9 The school shall provide to the Board the list of learning resources upon request.

~~9.1~~ **9.** Where practicable, a request for recognition of a program of massage therapy 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.

10. A program shall not grant transfer credit from another program unless the following standards are met:

(a) The program from where credit is being transferred shall be licensed or approved by the educational licensing authority in the state in which it operates, or be exempt by statute;

(b) The program from where the credit in being transferred shall provide an official transcript with each completed course listed;

(c) Courses for which credit is granted shall be parallel in content and intensity to the courses presently offered by the school; and

(d) Documentation of previous training shall be included in each student's permanent file.
9 The school where the credit is being transferred shall, upon program completion, provide a certificate of completion.

11. The Board shall publish in a paper form and on the Board's website:

(a) A list of all programs that it has recognized pursuant to this section; and

(b) A list of all programs that it has declined to recognize pursuant to this section.

12. The Board may decline to recognize a program, or may remove its recognition of a program, if:

(a) The program is not accredited or approved by the agency that accredits or approves such programs in the state in which the program is resident;

(b) Has had its accreditation or approval negatively effected in the state in which the program is resident or in any other state in which it had been previously accredited or approved; or

(c) The program was accredited or approved by a national accrediting agency and has had that accreditation or approval negatively effected by the national accrediting agency.

Section 2. Section 15 of the as yet uncodified regulation designated as LCB File No. R009-07 shall be amended to read as follows:

1. Any exterior door and window in a massage establishment must be tightfitting and must effectively exclude insects, rodents and other vermin.

2. The walls, ceilings and floors in a massage establishment must be well-maintained and kept clean.

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

4. Any restroom used by the establishment's staff must have a sign that reminds the staff that hand washing is mandatory after use of the restroom facilities.

Section 3. Section 26 of the as yet uncodified regulation designated as LCB File No. R009-07 shall be amended to read as follows:

1. As used in subsection 9 of NRS 640C.700, the Board interprets the phrase “unethical or unprofessional conduct” to include, without limitation:

(a) Offering to practice massage on a client in exchange for sexual favors;

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

(c) Using health care information or access to health care information to meet or attempt to meet the sexual needs of the massage therapist;

(d) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board;

(e) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapter 640C of NRS and chapter 640C of NAC to a member of the Board or a member of the staff of the Board upon his request;

(f) Prohibiting a member of the Board or a member of the staff of the Board to enter the

premises of a massage establishment during the massage establishment's normal operating hours;

(g) Interfering with or refusing to cooperate with the work being conducted by the member of the Board or a member of the staff of the Board while on the premises of a massage establishment.

2. When evaluating whether a massage therapist 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 and the client or former client;

(b) The transfer of care of the client or former client from the massage therapist to another massage therapist;

(c) The duration of the professional relationship between the massage therapist 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 were provided to the client or former client by the massage therapist;

(e) The communication between the massage therapist and the client or former client after the last services related to the practice of massage therapy 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;

(g) The nature of the health condition of the client or former client, if any, during the professional relationship between the massage therapist 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, if any, and the vulnerability of the client or former client; and

(i) The standard cycle for revisiting a massage therapist as determined by the Board.

Section 4. NAC chapter 634 shall be amended to add the following new language:

1. Where a massage establishment is wholly owned, controlled, and operated by one or more massage therapists, each massage therapist who owns, controls, and operates the massage establishment is responsible:

(a) To ensure that the massage establishment is operated in compliance with chapter 640C of NRS, chapter 640C of NAC, and all applicable local and state laws related to the operation of a massage establishment; and

(b) For the acts of all massage therapists at the massage establishment.

Section 5. NAC chapter 634 shall be amended to add the following new language:

1. Where a massage establishment is owned, controlled, and operate in part by one or more persons who are not massage therapists, that massage establishment must have one or more massage therapists who shall be designated the managing therapist for the massage establishment. A managing therapist must be a natural person who ~~is employed by and~~ works at the massage establishment on a regular basis as either an employee or as an independent contractor.

2. The managing therapist is responsible:

(a) To ensure that the massage establishment is operated in compliance with chapter 640C of NRS, chapter 640C of NAC, and all applicable local and state laws related to the operation of a massage establishment; and

(b) For the acts of all massage therapists at the massage establishment.

3. A massage establishment shall notify the staff of the Board on a form provided by the Board of:

(a) The name and license number of its managing therapist;

(b) The cessation of [employment] the designation of its managing therapist within 3 business days after such cessation; and

(c) The [employment] designation of a new managing therapist within 3 business days after such [employment] designation.

4. A massage establishment may not operate for more than 10 business days without a managing therapist. The Board may require all massage therapists of a massage establishment to cease and desist providing massage therapy at a massage establishment that operates without a managing therapist.

Section 6. NAC chapter 634 shall be amended to add the following new language:

1. An applicant seeking restoration of his license pursuant to the requirements of subsection 2 of section 640C.500 shall submit to the Board an application for restoration of the license on a form provided by the Board. Where the license has been expired for more than 60 days, the application for restoration of the license shall include 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. The license may not be restored until the report from the Federal Bureau of Investigation is received by the Board's office.

2. If the report from the Federal Bureau of Investigation contains information regarding arrests or convictions that was not contained on any preceding reports in the applicant's file,

the Board may require that the applicant appear at the next regularly scheduled meeting of the Board to determine whether the restoration of the applicant's license is in the best interests of the health, safety, and welfare of patients in Nevada. If the Board determines that restoration of the applicant's license is in the best interests of the health, safety, and welfare of patients in Nevada and the applicant has satisfied the requirements of subsection 2 of section 640C.500 of NRS, the license shall be restored. If the Board determines that restoration of the applicant's license is not in the best interests of the health, safety, and welfare of patients in Nevada, the license shall be permanently expired.

Section 7. ~~[NAC chapter 634 shall be amended to add the following new language:~~

~~1. The Board shall have a Scope of Practice Committee. At least one of the committee members must be a member of the Board. The committee shall:~~

~~(a) Convene when and as often as it deems necessary;~~

~~(b) Consider, deliberate, and decide whether a particular therapy or modality is within the definition of massage therapy as set out in NRS 640C.060;~~

~~(c) Report to the Board at each regular meeting of the Board, the committee's activities and determinations.~~

~~2. After receiving a report of the committee's determinations, the Board may ratify or modify the determinations of the committee. The Board shall publish in a paper form and on the Board's website:~~

~~(a) A list of all therapies or modalities that the committee determined are within the definition of massage therapy, including a description of each therapy or modality; and~~

~~(b) A list of all therapies or modalities that the committee determined are not within the definition of massage therapy, including a description of each therapy or modality.]~~