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DIVISION 1

PROCEDURAL RULES

334-001-0000

Notice to Interested Persons

(1) Prior to adoption, amendment or repeal of any rule relating to the practice of massage or bodywork, the Board shall give notice of the proposed adoption, amendment or repeal:

(a) In the manner established by rule adopted by the Oregon Board of Massage Therapists (Board) under ORS 183.341(4), which provides a reasonable opportunity for interested persons to be notified of the Board's proposed action;

(b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date; and

(c) At least 28 days before the effective date, to persons who have requested notice pursuant to subsection (7) of this section and to the persons specified in subsection (14) of this section.

(2) By mailing or delivering a copy of the notice to persons on the Board's mailing list, established pursuant to ORS 183.335(7);

(3) By mailing or furnishing a copy of the notice to representatives of the:

(a) Associated Press and United Press International;

(b) Oregon Massage Technicians Association;

(c) American Massage Therapy Association;

(d) Certified Massage Schools in Oregon; and

(4) By mailing or furnishing a copy of the notice to other persons, organizations, and publications that may have an interest in the subject matter of the proposal.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1978, f. & ef. 7-28-78; MTB 2-1982, f. & ef. 7-21-82; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00

334-001-0005

Model Rules of Procedure

The most current Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act are by this reference adopted as the rules and procedures of the Board of Massage Technicians and shall be controlling except as otherwise required by statutes or rules.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1978, f. & ef. 7-28-78; MTB 1-1980, f. & ef. 2-26-80; MTB 1-1982, f. & ef. 2-4-82; MTB 1-1985, f. & ef. 1-8-85; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-001-0012

Budget

The Oregon Board of Massage Therapists hereby adopts, and fully incorporates herein, the Oregon Board of Massage Therapists' 2007-2009 Biennium budget of \$1,287,346.

Stat. Auth.: SB 1127, ORS 183 & 687.121

Stats. Implemented: Section 6, (1) & (2)

Hist.: BMT 2-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2001, f. & cert. ef. 5-29-01; BMT 2-2003, f. & cert. ef. 6-17-03; BMT 2-2005(Temp), f. & cert. ef. 6-24-05 thru 6-30-05; BMT 3-2005, f. 6-24-05, cert. ef. 7-1-05; BMT 1-2007, f. & cert. ef. 6-29-07; BMT 2-2007, f. & cert. ef. 7-3-07

Contractual Agreements for Services

334-001-0020

Contracting

(1) The Oregon Board of Massage Therapists adopts by reference the State of Oregon's contracting procedures. These rules are contained in the Oregon Administrative Rules, chapter 125, divisions 20, 300, 310, 320, 330 & 360.

(2) The Board intends to develop its own contracting rules, but until those are developed and adopted these rules are controlling.

Stat. Auth.: SB 1127

Stats. Implemented: Section 5(4)

Hist.: MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00

334-001-0035

Purchasing

(1) The Oregon Board of Massage Therapists adopts by reference the State of Oregon's purchasing rules. These rules are contained in the Oregon Administrative Rules, chapter 125, division 30. The Board's one exception to these rules will be with air travel. When travel by airplane is necessary for the business of the Board, the traveler will purchase tickets from the least expensive source that meets the travelers basic scheduling needs. In determining the least expensive source, the State of Oregon travel agent will be one of the sources checked.

(2) The Board intends to develop its own purchasing rules, but until those are developed and adopted these rules are controlling.

Stat. Auth.: SB 1127

Stats. Implemented: Section 5(4)

Hist.: BMT 3-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00

334-001-0045

Personnel Policies

The Oregon Board of Massage Therapists hereby adopts its own personnel policies and, as such, are controlling. This policy is contained as an interagency working document. The Board intends to develop its own personnel policies, but until those are developed and adopted these rules are controlling.

Stat. Auth.: SB 1127

Stats. Implemented: Section 5(4)

Hist.: BMT 3-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 3-2005, f. 6-24-05, cert. ef. 7-1-05

334-001-0060

Definitions

(1) "Accountability" means the ability to acknowledge and evaluate one's choices and behaviors, and when necessary, to make changes in or amend professional relationships and practices.

(2) "Actual conflict of interest" means any action or any decision or any recommendation by an L.M.T. within the context of professional activities which has the effect of benefiting the L.M.T. at the expense of the best interests of a client.

(3) "Agency" means the ability to exert personal power or produce an effect.

(4) "Autonomy" means personal freedom or self-determination.

(5) "Barter" means partial or complete trade or exchange of massage or bodywork services for some other type of goods or service other than money.

(6) "Board" means the State Board of Massage Therapists or its authorized representatives as provided by ORS 687.115.

(7) "Boundary" means the limits in a professional relationship which allow for a safe connection based on the needs of the client.

(8) "Boundary violation" means an alteration or shift in the limits of a professional relationship so that what is allowed in the relationship becomes ambiguous and/or may not be based on the needs of the client.

(9) "Caring" means acting in a manner in which things, events, people or relationships matter.

(10) "Certified Class" means a class that is approved by the Board and is offered:

(a) By a person or institution licensed as a career school under ORS 345.010 to 345.450; or

(b) By a community college or university approved by the Department of Education; or

(c) In another state and licensed or approved by the appropriate agency in that state.

(11) "Client" means any individual, group of individuals, or organization to whom an L.M.T. provides massage for compensation and for purposes other than sexual contact, as defined in ORS 167.002(5). Client does not include the licensed massage therapist's family members or significant other.

(12) "Client vulnerability" means factors which diminish a client's ability to be self-determining.

(13) "Compassion" means being genuinely empathic and sensitive toward others.

(14) "Compensation" means something given or received as payment including but not limited to bartering, tips, monies or donations.

(15) "Confidential information" means any public record that is exempt from disclosure under ORS 192.410 to 192.505, and other state and federal laws.

(16) "Critical Reflection" means a process whereby knowledge and action are connected to each other through the application of careful, conscious, deliberate reflection on:

(a) Personal practice (perceptions, assumptions, motivations, values, behaviors)

(b) Assessment and understanding of a situation.

(c) Likely or actual consequences or impact of one's actions.

(17) "Dual Relationship" means any relationship of a personal or business nature with a client that is in addition to or concurrent with a professional relationship in which the L.M.T. is providing or has provided massage or bodywork services to that same client.

(18) "Ethics" means a system of valued societal beliefs and behaviors that may be used to guide and evaluate conduct to ensure the protection of an individual's person and rights.

(19) "Fraud or misrepresentation" means knowingly giving misinformation or a false impression through the intentional misstatement of, concealment of, or failure to make known a material fact or by other means.

(20) "Indorsement" means

(a) the process of evaluating and recognizing the credentials of a person licensed in Oregon in another health care specialty which may, as part of its scope of practice, engage in acts defined as massage; or

(b) the process of evaluating and recognizing the credentials of a massage or bodywork practitioner authorized to practice massage or bodywork in another state, country, foreign territory, or District of Columbia.

(21) "Informed consent" means a process wherein clients have knowledge of what will occur, that participation is voluntary, and that the client is competent to give consent.

(22) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an L.M.T.

(23) "L.M.T." means a Licensed Massage Therapist.

(24) "Manual" means the use of hands or the feet, or both, in the performance of massage.

(25) "Massage" or "massage therapy" means the use on the body of pressure, friction, stroking, tapping or kneading, vibration or stretching by manual or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants such as salts, powders, liquids or creams for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition.

(26) "Massage or bodywork practice" means the activities related to the L.M.T.'s provision of massage or bodywork services in his or her capacity as a practitioner, teacher, supervisor, consultant, mentor or educator.

(27) "Massage Therapist" means a person licensed under ORS 687 to practice massage.

(28) "Morals" means standards of right and wrong usually acquired through social learning and normally based on cultural and religious beliefs.

(29) "Official transcript" means a transcript copy certified by an official seal of the program or institution or by a designated authority of the program or institution to be authentic and accurate.

(30) "Personal power" means recognizing and taking personal responsibility for the inherent power differential between the L.M.T. and the client and recognizing and taking personal responsibility for the impact of professional decisions, actions and behavior on the client.

(31) "Potential conflict of interest" means any action or any decision or any recommendation by an L.M.T. within the context of

professional activities which could have the effect of benefiting the L.M.T. at the expense of the best interests of a client.

(32) "Power differential" means the basic inequality inherent in the professional relationship between an L.M.T. and a client in terms of who has the advantage in the relationship. The L.M.T. is presumed to have the advantage by virtue of the authority which emerges from the role of professional and the vulnerability which is automatically part of the role of client.

(33) "Practice of massage" means the performance of massage:

(a) For purposes other than sexual contact, as defined in ORS 167.002(5); and

(b) For compensation.

(34) "Preceptor" means a licensed massage therapist who contracts with an approved school or program of massage to provide direct on-site clinical supervision of a massage student enrolled in a certified class.

(35) "Professional authority" means the power inherent in the professional role and which is derived from a combination of an L.M.T.'s specialized or expert knowledge, societal expectations, stated and unstated client expectations, and an L.M.T.'s personal power.

(36) "Professional relationship" means the relationship established when an L.M.T. contracts with a client, verbally or in writing, to provide any service associated with the practice of massage or bodywork.

(37) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship.

(38) "Reciprocity" means recognition and acceptance of credentials from another massage or bodywork licensing authority in any state, country, foreign territory, or District of Columbia as equivalent to or exceeding Oregon's requirements for licensure as an L.M.T.

(39) "Respect" means the act of showing consideration or courteous regard toward an idea or person.

(40) "Responsibility" means the ability to engage in appropriate action within the context of professional practice in response to diverse and changing situations and events.

(41) "Service" means making a free choice to be helpful and beneficial.

(42) "Standard" means a quality or measure serving as a basis, example, or principle to which a licensed massage practitioner should conform.

(43) "Supervision" means:

(a) The process of overseeing and directing the training of massage students as set forth in the rules of the Board;

(b) The process of overseeing and directing a licensee being disciplined by the Board; or

(c) Voluntary consultation with, and education of, less experienced licensed massage therapists or practitioners in related fields.

(44) "Therapeutic relationship" means an element of professional practice based on principles of caring, respect, appropriate boundaries, and appropriate use of personal power in the professional relationship of an L.M.T. and client.

(45) "Treatment" means the selection, application and practice of massage or massage therapy essential to the effective execution and management of a plan of care.

(46) "Unprofessional or dishonorable conduct" means behavior, practice or condition that is contrary to the ethical standards adopted by the Board as well as general society standards.

(47) "Values" means concepts or ideals that provide a framework for making decisions and taking actions.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

DIVISION 10

MESSAGE LICENSING

334-010-0005

Applications

(1) All applications for examinations, licensure, inactive status, renewal, or temporary permit shall be made on forms provided by

the Board. Only applications that are completed and on Board approved forms, without alterations, will be accepted for filing and review by the Board.

(2) All applications made to the Board shall be accompanied by the required fee.

(3) Applicants for examination shall submit the following with their application:

(a) A copy of a legal picture identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a current, valid state identification card;

(b) An official certificate or transcript from the administering institutions, instructors, or programs showing successful completion of study and practice in the required subject matter and hours required by the Board; or, for reciprocity applicants, verification from original licensing state of successful completion of a written examination and an active license in that state; or, for indorsement applicants, verification of current license from the state of licensing.

(A) Official copies of transcripts or certificates presented to the Board in an envelope sealed by the program or institution or instructor and verified as sealed may be accepted directly from the applicant.

(B) If a program or institution granting credit is no longer in business, the Board will accept for review a copy of a certificate of completion or transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents; or verification of licensure as a Licensed Massage Therapist.

(c) Proof of current certification in cardiopulmonary resuscitation;

(d) A current photograph of the applicant;

(4) Transcripts must include a minimum of 500 hours of certified classes. The 500 hours must include the knowledge and skills identified in the Entry Level Competency Document and shall be comprised of:

(a) A minimum of 200 hours of health sciences to include Anatomy & Physiology, Pathology, and Kinesiology;

(b) A minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, Sanitation, and Hydrotherapy; and

(c) Content that incorporates the Entry Level Competencies established by the Board (334-010-0047).

(5) If for any reason an applicant does not appear to be qualified for admission to take the examination, the applicant shall be so notified and invited to submit additional evidence that he/she is entitled to have his/her case considered or to be admitted to examination.

(6) Documents in a Foreign Language All application documents for examination and licensure submitted in a language other than English shall be accompanied by:

(a) An accurate translation of those documents into English;

(b) A notarized affidavit certifying that the translator is competent in both the language of the document and the English language;

(c) A notarized affidavit certifying that the translation is a true and complete translation of the foreign language original.

(7) Any costs of translation of all documents required by the Board shall be at the expense of the applicant.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0002; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92, Section (7)(d) Renumbered from 334-010-0036; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04

334-010-0010

Examination

(1) The L.M.T. examination shall be held at least twice annually.

(2) The applicant shall be notified by mail, postmarked at least two weeks before the scheduled exam, unless otherwise waived by the applicant, of the time and place.

(3) Applicants who request an extension in writing to the Board postmarked 7 days in advance for the practical examination may

have their examination fees apply to a subsequent examination so long as the applicant sits for the examination within a year of the date of the extension. Only one extension shall be permitted. Exceptions will be reviewed on a case-by-case basis by the Board. Refund of the examination fee will be granted should the applicant request a refund in writing postmarked at least 7 days prior to the exam.

(4) Applicants are required to take and pass a Board approved written exam and the Oregon practical examination, which includes a written test on Oregon statutes and administrative rules.

(5) **Failure to Pass** An applicant must pass the practical examination within 24 months of the initial examination with a maximum of three attempts. If the applicant fails to pass in three attempts, he/she must re-establish eligibility to apply and sit for the massage therapist licensing examinations by undertaking and satisfactorily completing a Board approved program of remedial study from a certified school and/or instructor(s).

(6) Applicants for reciprocity or indorsement who are sitting only for the practical examination shall take the examination during the regularly scheduled examination dates.

(7) The Board may elect to administer examinations at other than regularly scheduled times if such administration:

(a) Does not interfere with the normal workload and work duties of the Board and its staff; and

(b) Additional costs associated with administering an unscheduled examination are paid by the applicant.

(8) **Examinee Conduct** An examinee, whose conduct interferes with the testing process or whose behavior violates ethical practices or jeopardizes the safety of a volunteer subject, may be dismissed and disqualified from examination. Such conduct includes but is not limited to the following behaviors:

(a) Giving or receiving examination data, either directly or indirectly, during the examination process;

(b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;

(c) Endangering the life or health of a model, other examinees, or examination staff;

(d) Introducing unauthorized materials during any portion of the examination;

(e) Attempting to remove examination materials or notations from the testing site; or

(9) Violating the credentialing process such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

(10) Test questions, scoring keys, and other examination data used to administer the qualifying examination are exempt from disclosure under ORS 192.410 to 192.505 as amended.

(11) The Board may release statistical information regarding examination pass/fail rates by group, type of examination, school, year, and subject area to any interested party.

(12) All examinations are given in the English language. An applicant is presumed to possess sufficient sensory, visual, hearing and psychomotor skills to independently perform massage and body-work skills.

(13) **Applicants with Special Needs** An applicant with special needs may apply to the Board for the provision of special conditions to complete the examination:

(a) The Board may require proof, provided by a qualified professional on letterhead, of the nature of the special need and type of special conditions recommended to complete the exam;

(b) A request for special conditions must be made to the Board in writing no later than three weeks prior to the date of the examination.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0004; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1982, f. & ef. 7-21-82; MTB 2-1985, f. & ef. 1-23-85; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98, Renumbered from 334-010-0021 [Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92, Sections (6) - (20)(h) Renumbered from 334-030-0020]; BMT 1-1999(Temp), f. 6-14-99, cert. ef. 7-4-99 thru 12-31-99; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2002(Temp), f. & cert.

ef. 1-9-02 thru 7-5-02; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 4-2005(Temp), f. & cert. ef. 9-19-05 thru 3-12-06; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2007, f. & cert. ef. 6-29-07; BMT 1-2007, f. & cert. ef. 6-29-07

334-010-0012

Examination Appeal

(1) Any applicant who takes the practical licensing examination approved by the Board and who fails to pass, may request review of the results of the examination by the Board.

(a) The Board will not consider any challenges to examination scores unless the total of the potentially revised score would result in issuance of a license.

(b) Examination results will not be modified unless the applicant presents clear and convincing evidence of error in the examination content or procedure, or bias, prejudice or discrimination in the examination process.

(c) The Board should set forth standards for appointing a committee to review examination appeals and make recommendations to the Board.

(2) The following appeal process shall be utilized to request a review of examination results:

(a) A request for appeal must be made by the applicant in writing and must be received in the Board office within thirty days of the date on the letter of notification of examination results sent to the applicant; and

(b) In the written appeal the applicant must specifically state the reason for the appeal and why the applicant believes the results should be modified. The applicant should identify the specific errors of content, procedure, bias, prejudice or discrimination that the applicant feels are applicable to the appeal.

(3) The following appeal process shall be utilized to conduct a review of examination results:

(a) During the review, the applicant will be identified only by the applicant's test number.

(b) The Board's representative will review the examination results including any written materials, audio or videotapes related to the examinations, examiner comments, and information provided by the applicant related to examination results.

(c) The Board representative(s) will present its findings to the Board in executive session at a regularly scheduled meeting of the Board.

(d) The Board will not consider oral arguments from the applicant regarding an examination appeal unless the Board determines that further information is required directly from the applicant. If such a determination is made, the applicant will be invited to meet in Executive session with the Board or Board representative(s).

(e) The Board will make a determination as to whether to grant the appeal and that determination will become part of the public record.

(4) Granting an appeal may result in the following actions:

(a) Reversal of a failing score and issuance of a license; or

(b) Suspension of a failing score and opportunity for the applicant to retake the practical examination immediately.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02

334-010-0015

Licensure

(1) The L.M.T. examination shall be held at least twice annually.

(2) The applicant shall be notified by mail, postmarked at least two weeks before the scheduled exam, unless otherwise waived by the applicant, of the time and place.

(3) Applicants who request an extension in writing to the Board postmarked 7 days in advance for the practical examination may have their examination fees apply to a subsequent examination so long as the applicant sits for the examination within a year of the date of the extension. Only one extension shall be permitted. Exceptions will be reviewed on a case-by-case basis by the Board. Refund of the examination fee will be granted should the applicant request a refund in writing postmarked at least 7 days prior to the exam.

(4) Applicants are required to take and pass the NCETMB, the NCETM, or the NESL written exam and the Oregon practical examination, which includes a written test on Oregon statutes and administrative rules.

(5) Failure to Pass. An applicant must pass the practical examination within 24 months of the initial examination with a maximum of three attempts. If the applicant fails to pass in three attempts, he/she must re-establish eligibility to apply and sit for the massage therapist licensing examinations by undertaking and satisfactorily completing a Board approved program of remedial study from a certified school and/or instructor(s).

(6) Applicants for reciprocity or indorsement who are sitting only for the practical examination shall take the examination during the regularly scheduled examination dates.

(7) The Board may elect to administer examinations at other than regularly scheduled times if such administration:

(a) Does not interfere with the normal workload and work duties of the Board and its staff; and

(b) Additional costs associated with administering an unscheduled examination are paid by the applicant..

(8) Examinee Conduct. An examinee, whose conduct interferes with the testing process or whose behavior violates ethical practices or jeopardizes the safety of a volunteer subject, may be dismissed and disqualified from examination. Such conduct includes but is not limited to the following behaviors:

(a) Giving or receiving examination data, either directly or indirectly, during the examination process;

(b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;

(c) Endangering the life or health of a model, other examinees, or examination staff;

(d) Introducing unauthorized materials during any portion of the examination;

(e) Attempting to remove examination materials or notations from the testing site; or

(f) Violating the credentialing process such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

(9) Test questions, scoring keys, and other examination data used to administer the qualifying examination are exempt from disclosure under ORS 192.410–192.505 as amended.

(10) The Board may release statistical information regarding examination pass/fail rates by group, type of examination, school, year, and subject area to any interested party.

(11) All examinations are given in the English language. An applicant is presumed to possess sufficient sensory, visual, hearing and psychomotor skills to independently perform massage and bodywork skills.

(12) Applicants with Special Needs An applicant with special needs may apply to the Board for the provision of special conditions to complete the examination.

(a) The Board may require proof, provided by a qualified professional on letterhead, of the nature of the special need and type of special conditions recommended to complete the exam.

(b) A request for special conditions must be made to the Board in writing no later than three weeks prior to the date of the examination.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2006(Temp), f. & cert. ef. 2-16-06 thru 8-7-06; Administrative correction 8-22-06

334-010-0016

Inactive Licenses

(1) A person licensed by the State Board of Massage Therapists to practice massage may move to an inactive status by notifying the board in writing on a form provided by the Board. Following

approval by the Board and upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, no such person may practice massage for a fee in the State of Oregon.

(2) Application for reinstatement of an inactive license shall include sufficient information to assure the Board of current competency in the practice of massage and bodywork. Depending on the length of inactive status and evidence of the practice of massage in another legal jurisdiction, the Board may require additional continuing education and/or a period of supervised practice to assure that the applicant can safely and competently practice the profession of massage.

(3) An application to reactivate a license shall be accompanied by:

(a) Current licensing fee;

(b) Proof of current certification in cardiopulmonary resuscitation;

(c) Proof of 25 hours of continuing education for each biennium or fraction of the biennium the license was inactive; and

(d) A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another legal jurisdiction during the period of inactive status.

(4) An individual who has held inactive status for greater than five years must:

(a) Provide proof of clinical practice in another legal jurisdiction; or

(b) Successfully complete a refresher course approved by the Board from a certified program of at least 50 hours; or

(c) Successfully pass the practical examination.

Stat. Auth.: ORS 687.121 & 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

334-010-0017

Lapsed License

(1) The massage therapist license shall be considered lapsed if an individual fails to pay the licensing fee when due or fails to meet continuing education requirements.

(2) During the lapsed status, no such person shall practice massage in the State of Oregon.

(3) A license in lapsed status shall not be placed in an inactive status.

(4) If the lapsed license is activated within the first two years of lapsed status, the following must be included with the completed application:

(a) Late fee;

(b) Current licensing fee;

(c) Proof of 25 hours of continuing education.

(5) An applicant whose license has been lapsed for more than two years but less than three years may reinstate by including the following with the completed application:

(a) Payment of the licensing fee applicable for the two years of the lapsed license;

(b) Payment of the current fee for activation of the license;

(c) Late fee payment;

(d) Proof of 25 hours continuing education for the two year lapsed period; and

(e) Proof of 25 hours continuing education for the current licensing period.

(6) All information required for restoring a lapsed license must be received within three years of the date of expiration. Thereafter, one must apply as a new applicant.

(7) **Inactive License Prior to Lapsed Status** If the license was in an inactive status prior to the current lapsed status, the applicant shall provide the following with the completed application:

(a) Payment of the current licensing fee for activation of the license;

(b) If the license is in the third year of lapsed status but still eligible for reactivation, payment of the licensing fee applicable for the

two years of the lapsed license and payment of the current licensing fee are both required;

- (c) Late payment fee;
- (d) Proof of 25 hours of continuing education for the two year inactive period; and
- (e) Proof of 25 hours of continuing education to activate the license; or
- (f) If in the third year of lapsed status, proof of an additional 25 hours of continuing education for the two years of lapsed status.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06

334-010-0025

Practice of Massage

(1) The practice of massage shall consist of applying pressure on, friction against, stroking, and kneading the body by manual or mechanical means, and gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps, and external baths such as steam, tub, or shower baths for the purpose of maintaining good health and establishing and maintaining good physical condition as stated in ORS 687.011.

(a) Gymnastics is defined as: Exercise intended to stretch and strengthen soft tissues in a general fashion.

(b) Massage is defined in part as treatment of soft tissue by means of manual techniques which include:

(A) Applying pressure, holding, or causing movement to the body with hand, elbow, knee, or foot;

(B) Passive, active, and resisted movement within the normal range of a client's physical capabilities;

(C) External use of hot, cold, or topical preparations such as lubricants and other preparations available to the general public;

(D) Application of any tool or device in common use which mimics or enhances the actions possible by the hands.

(2) Massage treatment does not include:

(a) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces;

(b) The application of ultrasound, diathermy, and electrical neuromuscular stimulation or substantially similar modalities;

(c) Colonic irrigation;

(d) Making a medical diagnosis.

(3) A person represents himself or herself as a massage therapist when the person adopts or uses any word(s) that implies a skill or application as defined by statute 687.011.

(4) Any person who holds a license as a massage therapist in this state may use the abbreviation "L.M.T." No other person(s) may assume such title or such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage therapist.

(5) No licensed massage therapist shall perform or offer to perform any services for customers other than those incidental to or connected with the giving of massage treatments or rendered pursuant to a state issued license.

(6) All licensed massage therapists must notify the Board office in writing of any change of residence, business or mailing address within 30 days of change of address.

(7) For purposes of ORS 687.031(1) the Board deems "direction" to mean massage performed on the written order of the licensee. The Board does not recognize any such "direction" unless it is under the specific sanction of a rule of the licensing agency defining the scope of the licensee's authority to delegate and the extent of supervision required of the licensee.

(8) All licensed massage therapists must clearly display their license at their place of business.

(9) All licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0010; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MTB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-2002, f. 5-8-02, cert. ef. 1-1-03; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04

334-010-0031

Outcall Massage

(1) "Outcall massage" or "on-site massage" means massage performed at the location of the client.

(2) When making outcalls, massage technicians must adhere to OAR chapter 334.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; BMT 2-1998, f. & cert. ef. 7-22-98

334-010-0033

Fees

Licensure fees will not be refunded.

(1) The fee for an initial and renewal license is \$100 per biennium.

(2) The fee for inactive license is \$50 per biennium.

(3) The fee for the practical examination and retake is \$150.

(4) Application fee \$50.

(5) Examination fee will be refunded only when the applicant is unqualified by Oregon statutes and no inquiry or investigation is initiated.

(6) A \$25 fee will be charged per week, to a maximum of \$250, for any late license renewal.

(7) The temporary license fee is \$25.

(8) The fee for mailing list is \$100.

(9) The fee for a license reprint is \$5.

(10) The fee for license verification is \$5.00.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1989(Temp), f. & cert. ef. 7-27-89; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 4-2004, f. 10-22-04, cert. ef. 1-1-05; BMT 1-2006, f. & cert. ef. 1-5-06

334-010-0041

Reciprocity and Indorsement

(1) **Reciprocity:** The Board may establish automatic licensure between the Board and another licensing authority of a state, territory, country, or District of Columbia if the requirements of that licensing authority meet or exceed the requirements established in Oregon.

(2) The Board may grant a license by reciprocity without any additional examination to any applicant who holds a valid license or permit to practice from another state, territory, country or District of Columbia with which the state of Oregon has a reciprocal agreement

(3) **Indorsement:** The Board may grant a license by indorsement, after successful completion of a practical exam, to any applicant currently holding a license in this state in a health related field whose curriculum includes a minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, Sanitation, and Hydrotherapy.

(4) The Board may grant a license by indorsement, without any additional examination, to any applicant who:

(a) Holds a valid L.M.T. license, permit, certificate, or registration from another state, territory, country or District of Columbia whose requirements are equivalent to or exceed those in effect in Oregon at the time of application and who have passed the licensing authority's examination or an examination accepted by the Oregon Board of Massage; or

(b) Holds a valid L.M.T. license, certificate, permit, or registration to practice from another state, territory, country or District of Columbia and can demonstrate through documentation of educational preparation, successful completion of massage and bodywork examinations accepted by the Board and work experience in the

active practice of massage that they meet the requirements in effect in Oregon at the time of application.

(5) The Board may grant a license by indorsement, after the successful completion of a practical examination, to any applicant who holds a license, permit, registration, or certificate from a state, country, territory or District of Columbia whose requirements are not equivalent to the State of Oregon.

(6) All candidates for indorsement/reciprocity must sign a statement verifying that they have read all relevant and current Oregon statutes and regulations related to massage and have read all current policies and guidelines published by the Board.

Stat. Auth.: ORS 183, 687.121 & SB 1127

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-2002, f. 5-8-02, cert. ef. 1-1-03

334-010-0046

Class Certification

(1) Contact hours as used in ORS 687.051(1)(d) means actual hours of attendance in class under instruction in the presence of an instructor.

(2) Credit hours will be converted to contact hours based on the number of class hours per week multiplied by the number of weeks of class attendance.

(3) In order for a class to be certified under ORS 687.051:

(a) It must contain as a minimum the content stated in the Entry Level Competencies and must include a method of evaluation to determine the student's successful completion of class;

(b) The person or institute offering the class shall apply to the Board with a written description of class content in sufficient detail to demonstrate that the class complies with the minimum content described in the Entry Level Competencies, the number of hours, and the successful completion of requirements.

(4) Such classes certified under ORS 687.051 must be offered by:

(a) A person or institution licensed as a private vocational school under ORS 345.010 to 345.074 or the equivalent licensing authority of another state; or

(b) By a community college and approved by the Division of Vocational Education of the Department of Education, or the appropriate agency of another state; or

(c) By a college or university accredited either by the Northwest Association of Secondary and Higher Schools or a like regional association or by a college or university in Oregon approved by the Oregon Office of Educational Policy and Planning for the purpose of granting degrees.

(5) Such a class must contain at least the content stated in the Entry Level Competencies and must include a method of evaluation to determine the student's successful completion of the class.

(6) The application for approval of a class shall include, but not be limited to, the following information: completed application, written course outline including number of contact hours of instruction, attendance requirements for students, a sample copy of an examination, and qualifications of instructors.

(7) The authorized representative of a certified class shall notify the Board of significant changes with respect to information provided in the application materials within 60 days.

(8) Any person who has proof of successful completion of study in a skill or subject listed in the Entry Level Competencies which has not received certification from the Board may apply to the Board for specific evaluation and certification by the Board. In such a case, a transcript or a written presentation by the institution or the person giving the class as stated in subsection (3) of this rule shall be provided to the Board. (A list of current certified classes is available at the Board office.)

(9) Although a class certification is not required in advance in order to ultimately qualify under ORS 687.051, persons or institutions offering classes and persons taking classes which are not certified in advance do so at the peril of the class not being certified by the Board.

(10) Certification may be revoked by the Board if they determine requirements have not been met.

(11) Denials or revocations of certification of classes, if not disposed by informal processes, may be heard as a contested case by the Board.

(12) The Entry Level Competency Document shall be reviewed and/or revised periodically by the Board. Prior to making any content revisions, the Board shall obtain input from Oregon certified massage schools regarding proposed changes. The Board will solicit input at least yearly from Oregon approved massage schools regarding their suggestions for alterations in the Entry Level Core Competencies.

(13) The Board may establish a committee composed of no more than three Board members and no more than three representatives of Oregon approved massage schools to evaluate individual classes and make recommendations regarding their relevance to Entry Level Competency content.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; BMT 2-1998, f. & cert. ef. 7-22-98

334-010-0047

Entry Level Competency Requirements

At the completion of the educational program, the beginning massage and bodywork practitioner shall be able to:

(1) Demonstrate knowledge of anatomy, physiology, kinesiology and pathology as outlined in the current Occupation Analysis.

(2) Demonstrate palpation skills by:

(a) Locating origin, insertion, and belly of major muscles;

(b) Demonstrating lengthening, shortening; and

(c) Demonstrating rudimentary knowledge of energy systems and pathways.

(3) In developing a treatment plan for a client, identify indications for, contraindications to, risks, and benefits of all treatment options and use that knowledge to develop an appropriate age specific treatment plan.

(4) Establish a client database consistent with the type of client concern or problem, type of services required, and level of services required by:

(a) Obtaining client history, either verbal or written;

(b) Conducting physical assessment;

(c) Conducting energy assessment.

(5) Establishing a treatment approach or plan taking into consideration the presenting concern/problem, client profile, client preferences for treatment, and treatment effectiveness/outcome.

(6) Reassess and update client data base and treatment approach/plan as indicated.

(7) Inform client of outcome of assessment, treatment options, alternatives, risks, benefits, side effects and expected treatment outcomes as indicated.

(8) Obtain verbal or written informed consent for treatment.

(9) Consult, collaborate with, or refer clients to other health care providers when indicated by client condition or if desired by client.

(10) Establish and maintain competence in basic techniques of soft tissue manipulation and treatment.

(11) Apply passive, active, and resistive movement safely within normal range of client's capabilities.

(12) When indicated, safely utilize external applications of heat, cold, topical preparations, and other preparations available to the public.

(13) When indicated, safely utilize mechanical assistive devices for massage/bodywork.

(14) Practice effective interpersonal communications that take into consideration client's capabilities, boundaries and background and which demonstrate courtesy and respect.

(15) Track nonverbal communication of client and, if needed, use it to enhance communication and adjust treatment plan.

(16) Demonstrate knowledge base of professional and business records that might be needed for practice.

(17) Establish and maintain an environment for practice that provides for the client's safety and comfort and meets basic require-

ments and occupational health standards in regard to sanitation, prevention of communicable disease, prevention of accidents, privacy, and sensory needs of client (temperature, sound, light, etc.).

(18) Demonstrate basic knowledge of legal and business requirements for practice of massage and bodywork.

(19) Demonstrate basic knowledge of ethical principles and decision-making relevant to practice of massage and bodywork.

(20) Demonstrate ability to apply massage and bodywork techniques in a manner congruent with basic principles of body mechanics for self and client.

(21) Demonstrate basic knowledge of CPR by holding current CPR certificate.

(22) Demonstrate awareness of a variety of massage and bodywork theories and techniques.

(23) Implement the principles outlined in Division 30, Ethics.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98

334-010-0050

Continuing Education

The intent of Continuing Education is to protect the public by maintaining and enhancing licensees' professional knowledge and skills relating to massage and bodywork practice.

(1) Each licensee shall complete 25 hours of continuing education each biennium. At renewal time, each licensee shall sign and submit a Board supplied CE form indicating they have completed the required hours of continuing education. At least 12 hours must be contact hours defined as instruction involving other massage and bodywork practitioners. The remaining 13 hours may be contact hours or in areas as defined on Board supplied CE form.

(2) The continuing education requirement shall not apply to a licensee's first license renewal.

(3) Continuing education must be completed within the renewal period. Contact hours taken in excess of the total number required may only be carried over to the next subsequent renewal period.

(4) Continuing education records shall be maintained by each licensee for a minimum of five years.

(5) If the Board finds indications of fraud or falsification of records, investigative action shall be instituted. Findings may result in disciplinary action including revocation of the licensee's license.

(6) Failure to complete continuing education hours by the time of renewal may result in denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in suspension of the license to practice massage.

(7) Continuing education must be in areas related to the practice of massage or bodywork including theory, research, technique or business development.

Stat. Auth.: ORS 687.081, 687.121 & 687.122

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 1-1998(Temp), f. & cert. ef. 2-3-98 thru 7-31-98; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 2-2004(Temp), f. & cert. ef. 3-16-04 thru 9-7-04; Administrative correction, 9-28-04; BMT 3-2004(Temp), f. & cert. ef. 10-22-04 thru 4-19-05; BMT 1-2005, f. & cert. ef. 2-23-05; BMT 1-2006, f. & cert. ef. 1-5-06

DIVISION 20

SANITATION, FACILITY AND BUILDING REQUIREMENTS

334-020-0005

Equipment: Sanitation Rules

(1) Cabinet, vapor, or steam baths; All establishments giving cabinet, vapor, or steam baths shall be equipped with adequate shower facilities.

(2) All cabinets, showers, tubs, basins, massage or steam tables, combs, brushes, shower caps, and all other equipment used shall be cleansed and shall be rendered free from harmful organisms by the application of a bactericidal agent.

(3) Equipment coming in contact with the client shall be cleansed with soap or detergent and water followed by sanitation prior to use on each individual client.

(4) Impervious sheeting shall cover, full length, all tables, mattresses, or pads, and covered with clean linens or single service materials.

(5) All equipment shall be clean and well maintained.

(6) All electrical equipment used for client's care must be clean and well maintained and approved by a nationally recognized testing laboratory.

(7) All ice cubes must be used only once and then disposed of properly. All ice pack equipment must be cleaned after each use and must be well maintained.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0012; MTB 2-1985, f. & ef. 1-23-85; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0030; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0015

Communicable Disease Control

(1) All licensed massage technicians are required to have knowledge of communicable diseases for the protection of clients and the massage technicians.

(2) Any massage technician or massage business owner or manager who has reason to suspect that any employee or client may have a communicable disease should suggest that the individual have an examination by his/her licensed health-care provider. A written statement from a licensed health care provider verifying that the licensed massage technician is in compliance with the communicable disease guidelines is required prior to resumption of massage practice by that particular licensed massage technician.

(3) LMT's are required to follow the communicable disease guidelines as adopted by the Board. (Communicable Disease Guidelines adopted June 12, 1998, are included as an attachment to these rules.)

[ED. NOTE: Guidelines referenced are available from the agency.]

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0016; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0040; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0020

Massage Lubricants, Dispensers and Storage

(1) Massage lubricants include but are not limited to the following: oils, soaps, alcohol, powders, lotions, shampoos and salts.

(2) Massage lubricants shall be dispensed from suitable containers to prevent contamination.

(3) Massage lubricants shall be stored to prevent contamination.

(4) Massage lubricants shall be stored separately from cleaning supplies.

(5) Massage lubricants shall be stored so as to preserve their integrity.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0018; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0045; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0025

Doors and Windows

(1) Doors and windows opening to the outside air shall be tight fitting and exclude flies, insects, rodents, or other vermin.

(2) The massage room shall provide client privacy.

(3) No room shall be used simultaneously for massage and any domestic purposes.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0020; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0050; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0030

Floors

- (1) Floors shall be kept clean and well maintained.
- (2) Floors in toilet rooms shall be made of an impervious material that is smooth and easily cleaned.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0022; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0055; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0035

Furniture

- (1) Furniture shall be kept clean and well maintained.
- (2) Massage tables shall be covered with impervious material that is easily cleaned. They shall be kept clean and well maintained.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0024; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0060; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0040

Garbage and Refuse Disposal

- (1) Lavatory and toilet rooms shall be equipped with fly-tight containers for garbage and refuse.
- (2) Garbage and refuse containers shall be easy to clean and well maintained.
- (3) Garbage and refuse shall be disposed of in a sanitary manner.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0026; MTB 2-1982, f. & ef. 7-21-82; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0065; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0045

Heating, Ventilation, and Lighting of Massage Rooms

All rooms in which massage is practiced shall:

- (1) Have the capability of heating and maintaining room air to a temperature of 75 degrees Fahrenheit at a point 24 inches above the floor.
- (2) Have sufficient ventilation and circulation to prevent objectionable odors.
- (3) Have lighting fixtures' capable of providing a minimum of five (5) foot-candles of light at floor level and shall be used during cleaning operation.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0028; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0070; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0050

Linens

- (1) The use of soiled linens is prohibited.
- (2) All single-service materials and clean linens shall be stored at least four inches off the floor in shelves, compartment, or cabinets used for that purpose only.
- (3) All single-service materials and linens (such as sheets, towels, gowns, pillow cases) used in the practice of massage, shall be furnished clean and fresh for the use of each individual patron.
- (4) All soiled linens shall be immediately placed in a covered receptacle.
- (5) All soiled linens shall be washed with bleach in a clothes washing machine which provides a hot water temperature of at least 140 degrees Fahrenheit.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0030; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0075; MTB 1-1990, f. & cert. ef. 4-20-90; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0055

Personnel

Massage technicians shall wear clean clothing and practice high standards of personal hygiene.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0032; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0080; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0060

Plumbing

All interior water distribution piping shall be installed and maintained in conformance with the local Plumbing Code.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0034; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0085; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0065

Sewage Disposal

All sewage and liquid waste shall be disposed of in a Municipal Sewage System where such facilities are available. If a Municipal Sewage System is not available, sewage and liquid waste shall be collected, treated and disposed of in compliance with the rules and regulations of the Department of Environmental Quality governing sub-surface sewage disposal.

Stat. Auth.: ORS 182 & 687

Stats. Implemented:

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0036; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0090

334-020-0070

Toilets and Lavatory Facilities

- (1) Every massage business shall be provided with a sanitary toilet.
- (2) Lavatories with adequate supply of hot and cold water under pressure shall be conveniently located for use by the employees and patrons.
- (3) Toilet room doors shall be capable of being fully closed and locked from the inside and the rooms shall be kept clean, in good repair, and free from flies, insects, and vermin.
- (4) A supply of soap in a covered dispenser and single-use sanitary towels in a dispenser shall be provided at each lavatory installation with waste receptacle for proper disposal; a supply of toilet paper on a dispenser shall be available for each toilet installation.

Stat. Auth.: ORS 182, 183 & 687.121

Stats. Implemented:

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0038; MTB 1-1979, f. & ef. 5-22-79; MTB 3-1982, f. & ef. 10-6-82; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0095; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92

334-020-0075

Walls and Ceilings

Walls and ceilings shall be kept clean and well maintained.

Stat. Auth.: ORS 182 & 687

Stats. Implemented:

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0040; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0100

334-020-0080

Water Supply

The water supply shall be adequate, safe, and sanitary.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0042; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0105; BMT 2-1998, f. & cert. ef. 7-22-98

334-020-0085

Housekeeping

The premises of all massage businesses shall be kept clean and free of litter or rubbish. The massage business shall be maintained in a neat and orderly manner.

Stat. Auth.: ORS 182 & 687

Stats. Implemented:

Hist.: MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0110

334-020-0090

External Baths

(1) External baths are defined as, but not limited to, spa pools, showers, tub baths, saunas and steam baths.

(2) Spa pool means any pool of water designed primarily to direct water or air-enriched water under pressure onto the bather's body with the intent of producing relaxing or therapeutic effects.

(3) Showers mean baths where the bather's body is sprayed with a fine stream of water from small jets.

(4) Tub baths mean where the bather's body is dipped or soaked in a body of water.

(5) Sauna means the application of dry heat and/or water vapor.

(6) Steam bath means the application of water vapor.

(7) All spa pools and tub baths which are intended for recreational bathing shall be licensed and operated in accordance with the Oregon State Health Division rules and regulations for Public Swimming Pools and Bathhouses.

(8) External baths where used shall:

(a) Be separate from massage room;

(b) Have floors which are slip-resistant, easily cleaned and coved to a height of four inches (10 cm);

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

(d) Where rubber or impervious mats are used, have such mats cleaned and dried between usage;

(e) An effective water-tight joint between wall and floor shall be maintained;

(f) Where resilient artificial recreational surfaces are used, they shall comply with the National Sanitation Foundation Standard #39 or its equivalent, and be vacuumed with a wet vacuum frequently to keep them clean and free from accumulated moisture.

(9) Showers where used shall:

(a) Have compartments which are impervious to water to a height of six (6) feet (1.83 m) above the floor;

(b) Have shower stall floors that are furnished with non-slip impervious surface;

(c) Where glass bath or shower doors are used, the doors shall be made of safety glass.

(10) External baths, equipment and rooms shall be kept in good operating condition.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1979, f. & ef. 5-22-79; MTB 3-1982, f. & ef. 10-6-82; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0115; BMT 2-1998, f. & cert. ef. 7-22-98

DIVISION 30

ETHICAL STANDARDS

334-030-0001

Preamble

(1) In order to safeguard the health, safety and welfare of the citizens of Oregon and to establish and maintain a high standard of integrity and practice, the following Standards of Professional Conduct shall be binding on every person holding a license to practice massage in this state.

(2) The Standards of Professional Conduct as promulgated herein are an exercise of the authority vested in the Board by acts of the legislature.

(3) All persons licensed under ORS 687 are charged with having knowledge of the existence of these Standards of Professional Conduct and shall be deemed to be familiar with their provisions and to understand them. Such knowledge shall encompass the understanding that the practice of massage is a privilege as opposed to a right.

(4) The Board may establish guidelines for ethical decision-making that are congruent with the standards of professional conduct promulgated by the Board. Such guidelines may be modified or revised at the Board's discretion. The Board will use current standards of practice and codes of ethics in the field of massage and bodywork as well as relevant statutes and regulations in establishing guidelines for ethical decision-making. A copy of any such guidelines or change shall be published in the Board's newsletter and relevant professional publications in the field of massage and bodywork. A single copy shall be provided to anyone requesting a copy. A charge for the cost of copying and distributing the document shall be made for any copies requested in excess of one.

Stat. Auth.: ORS 687.011 & 687.081

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98

334-030-0002

Fundamental Canons

(1) Licensees, in the fulfillment of their professional duties, shall hold paramount the safety, health and welfare of the public in the performance of their professional duties; adhere to the Standard of Professional Conduct adopted by the Board; and strive, to the best of their ability, to uphold the highest practices of ethical conduct and integrity in the performance of their duties.

(2) It shall be the duty of every licensee having knowledge of any reasonably suspected violation of the rules or statutes governing massage to cooperate with the Board in furnishing such information or assisting the Board, as may be required, in order that appropriate investigative and corrective or disciplinary action may be taken.

Stat. Auth.: ORS 687

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-030-0005

Standards of Professional Conduct

(1) Standard I: Responsibility:

(a) The LMT acquires, maintains and improves professional knowledge and competence.

(b) The LMT uses scientific, clinical, technical, psychosocial and governmental sources of information and knowledge as the foundation for professional practices.

(c) The LMT plans and provides care and services in partnership with the client based on client needs.

(d) The LMT considers factors related to safety, effectiveness, and cost in planning and providing care and services.

(e) The LMT represents all aspects of his or her professional capabilities and services honestly and accurately.

(2) Standard II: Accountability:

(a) The LMT is accountable to his or her clients for the quality and effectiveness of care and services and for creating the basic conditions and boundaries necessary to foster safety and trust in the client-professional relationship.

(b) The LMT, using experience, professional education, and available resources, is accountable to his or her profession for establishing the quality and effectiveness of care and services.

(c) The LMT is accountable for his or her actions and commitments and assumes personal and professional responsibility to do his or her best.

(3) Standard III: Therapeutic Relationship:

(a) The LMT's actions with a client are based on understanding and implementing the core values of caring, respect, compassion, appropriate boundaries, and appropriate use of personal power.

(b) The LMT develops alliances with the client, colleagues, other health care providers and the community to provide care and services that are safe, effective and appropriate to the clients' needs.

(c) The LMT establishes relationships with other massage, bodywork or healthcare professionals to collaborate with, to offer or to receive consultation in the provision of services.

(d) The LMT develops and incorporates respect for diverse client backgrounds in regard to a client's clinical diagnosis, lifestyle, sexual orientation, race, gender, ethnicity, religion, age, and socioeconomic background when planning and providing services.

(4) **Standard IV: Critical Reflection:**

(a) The LMT uses critical reflection in the assessment of professional and clinical situations for the development and provision of care and services.

(b) The LMT evaluates the quality and effectiveness of his or her professional practice activities.

(c) The LMT modifies and adapts professional practice activities, consistent with current professional standards and practices, in response to client needs, advancing knowledge and research, and social expectations.

(5) **Standard V: Agency and Autonomy:**

(a) The LMT is an autonomous agent in planning and providing care and services to individuals, groups and the community.

(b) The LMT acts within the context of professional practice standards, codes of ethics, and relevant statutes and regulations.

(c) The LMT acts as an advocate for clients and clients' needs.

(d) The LMT supports and respects the client's right and responsibility for self-determination in making health care choices.

(e) The LMT bases decisions and actions on behalf of a client on sound ethical reasoning and current principles of practice.

Stat. Auth.: ORS 687.081 & 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98

334-030-0010

Complaints

The Board will process complaints as follows:

(1) Anyone may submit a complaint against a licensed or unlicensed person. A complaint may be submitted anonymously; however, this seriously hinders any investigation by the Board.

(2) A preliminary review of the complaint will be made by the Board or its representative, to assure there is sufficient evidence to justify proceeding and that the allegations against the Respondent are such that, if proven, could result in disciplinary action being imposed by the Board.

(3) If the complaint is considered to be valid, the Board will then proceed as follows:

(a) The Board or its representative will notify the Respondent of the allegations by mail and request written comments. Written comments must be received by the Board within two weeks after the notification was first mailed, unless an extension is authorized by the Board, or the Board will evaluate the complaint using available evidence; or

(b) The Board or its representative will refer the complaint to the Board's designated authority for additional investigation. This will be determined on a case-by-case basis.

(4) The Board shall evaluate all evidence obtained, including any documents or comments received from the Respondent, Board investigators (volunteer or paid), Board staff or a committee of the Board. The Board will then proceed as follows:

(a) If the evidence is insufficient to show cause of action, the complainant and respondent will be so notified in writing.

(b) If the evidence is sufficient to show cause of action, the Board will consider and take appropriate action at a regular or special meeting.

Stat. Auth: ORS 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-030-0025

Discipline

The Board may refuse to grant, may suspend or revoke a license, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons:

(1) Practicing massage or representing one's self as a massage technician without being licensed by the Board.

(2) Knowingly or recklessly making any false statement to the Board.

(3) Suspension or revocation of a license to practice massage in another state, territory, or country based upon acts by the licensee similar to acts described in this section.

(4) Conviction of a crime in this state, or any other state, or conviction of a federal crime which demonstrably relates to the practice of massage.

(5) False, deceptive, or misleading advertising, which includes but is not limited to, advertising massage using the term massage or any other term that implies a massage technique or method in any private or public communication or publication by a person licensed or not licensed by the Board as a massage technician. For the purpose of the subsection, "advertise" includes telephone directory listings.

(6) Allowing the use of a license by an unlicensed person.

(7) Presenting as one's own license, the license of another.

(8) Practicing massage under a false or assumed name without notification to the Board.

(9) Impersonating another massage technician.

(10) Assisting, employing, or permitting an unlicensed person to practice massage.

(11) Using or attempting to use a license that has been revoked or suspended, lapsed or inactive.

(12) Practicing or offering to practice beyond the scope permitted by law.

(13) Habitual intemperance in the use of intoxicants, drugs, or controlled substances to such an extent as to impair the licensee's abilities to perform professional duties in a safe manner.

(14) Knowingly or willfully practicing massage with a physical or mental condition that makes the technician unable to safely conduct the practice of massage.

(15) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board.

(16) Refusing to permit the Board or its representatives to inspect the business premises of the licensee during regular business hours.

(17) Failing to cooperate with the Board in any licensing action or disciplinary proceeding. Such acts include but are not limited to:

(a) Not furnishing any requested papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the Board;

(c) Not responding to subpoenas issued by the Board whether or not the recipient is accused in the proceeding.

(18) Failing to comply with an order issued by the Board or an assurance of discontinuance entered into with the Board.

(19) Unprofessional or dishonorable conduct which includes but is not limited to:

(a) Any conduct or practice contrary to recognized standards of ethics of the massage profession which includes:

(A) Sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465, Criminal Sexual Offenses, if proven by at least a preponderance of the evidence in any criminal, civil, or administrative litigation, or admitted to or stipulated by the professional.

(B) Sexual violation which is sex between the lmt and the client, whether initiated by the client or not, engaging in any conduct with a client that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: sexual intercourse; genital to genital contact; oral to genital contact; oral to anal contact; oral to oral contact except cardiopulmonary resuscitation; touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where the client has refused or withdrawn consent; encouraging the client to masturbate in the pres-

ence of the professional or masturbation by the professional while the client is present. (Board Breast Policy adopted June 12, 1998, is included as an attachment to these rules.)

(C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress for self gratification instead of providing privacy for disrobing; subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn; an examination or touching of genitals; inappropriate comments about or to the client, including but not limited to, making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or professional's sexual orientation (homosexual or heterosexual or bisexual), and making a request to date; initiation by the professional of conversation regarding the sexual problems, preferences or fantasies of the professional; kissing of a sexual nature.

(b) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client required by law to dis-

close such information or, if permitted to do so, on the written consent of the client.

(c) Intentionally harassing, abusing, or intimidating a client either physically or verbally.

(d) Any conduct or practice which could endanger the health or safety of a client or the public.

(e) Any conduct or practice which impairs a massage technician's ability to safely and skillfully practice massage.

(f) Exercising undue influence on a client, including promotion or sale of services, goods, or appliances in such a manner as to exploit the client for the financial gain or self-gratification of the massage technician.

(g) Practicing in an incompetent manner.

(h) Conduct which would also constitute a violation of the Oregon Unlawful Trade Practices Act.

Stat. Auth.: ORS 687.081 & 687.121

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Sections (6) - (20)(h) Renumbered from 334-030-0020; BMT 2-1998, f. & cert. ef. 7-22-98