

State of New Mexico Massage Therapy Board



RULES AND REGULATIONS

New Mexico Massage Therapy Board

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New Mexico Massage Therapy Board

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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 1 GENERAL PROVISIONS

16.7.1.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[7-28-96; 7-30-99; 16.7.1.1 NMAC - Rn & A, 16 NMAC 7.1.1, 06-28-01; A, 06-24-05]

16.7.1.2 SCOPE: This part applies to the board, licensees, registrants, applicants, and the general public.
[7-28-96; 16.7.1.2 NMAC - Rn, 16 NMAC 7.1.2, 06-28-01]

16.7.1.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, NMSA 1978, Sections 61-12C-7.E, 61-12C-7.F, 61-12C-8.A and 61-12C-11 (1999).
[7-28-96; 16.7.1.3 NMAC - Rn, 16 NMAC 7.1.3, 06-28-01, A, 06-24-05]

16.7.1.4 DURATION: Permanent.
[7-28-96; 16.7.1.4 NMAC - Rn, 16 NMAC 7.1.4, 06-28-01]

16.7.1.5 EFFECTIVE DATE: July 28, 1996, unless a later date is cited at the end of a section.
[7-28-96; 16.7.1.5 NMAC - Rn, 16 NMAC 7.1.5, 06-28-01; A, 06-24-05]

16.7.1.6 OBJECTIVE: This part is to establish the requirements for display of licenses and certificates, name change, address change, verification of licensure procedures, board meetings, and inspection of public records.
[7-28-96; 16.7.1.6 NMAC - Rn, 16 NMAC 7.1.6, 06-28-01]

16.7.1.7 DEFINITIONS:

- A. “Academic hour”** means continuing education taken in an academic setting that is equivalent to fifteen (15) class or contact hours.
- B. “Active status”** means a license that is current and authorized the licensee or registrant to perform the practice or service authorized by the license or registration.
- C. “Board”** means the New Mexico board of massage therapy, hereinafter referred to as the board.
- D. “Board administrator” or “administrator”** means the staff person assigned certain express or implied executive and administrative function of the board as defined by board regulations or as required to carry out the provisions of the act.
- E. “Class hour” or “contact hour”** means no less than fifty (50) minutes of any one-clock hour during which the student/massage therapist participates in a learning activity in the physical presence and under the tutelage of an instructor.
- F. “Client”** means a recipient of “professional services” or a massage therapy student. In the case of individuals not able to give legal consent their legal guardian shall be the client for decision making purposes.
- G. “Clinical practicum”** means that a student is providing hands-on massage therapy to members of the public under the supervision of a current registered massage therapy instructor. That instructor must be physically present on the premises for advice and assistance. The student must be enrolled at a registered massage therapy school or being trained by a registered massage therapy instructor. Clinical practicum does not include classroom practice.
- H. “Compensation”** means a gain, whether monetary, trade or barter, for massage therapy services.
- I. “Complainant”** means the complaining party of a complaint filed against a licensee(s), registrant(s), or applicant(s) for licensure or registration.
- J. “Complaint”** means a sworn written complaint.
- K. “Confidential information”** means personally identifiable information revealed by a client.
- L. “Deformation”** specifically prohibits the use of high velocity thrust techniques used in joint manipulation.
- M. “Examining agency”** means the national certification board for therapeutic massage and bodywork (NCBTMB) or the federation of state massage therapy boards (FSMTB).
- N. “Expired status”** means a license that has not been reactivated from inactive status and can no longer be reactivated.

O. “**Grace period**” refers to the sixty (60) day period following the renewal date when a massage therapist, licensee, massage therapy instructor or massage school registrant may renew a license or registration (that was not renewed timely) with a penalty fee. A licensee or registrant may still practice or provide the services authorized by the license or registration during those sixty (60) days.

P. “**Grace period status**” refers to the license or registration that has not been renewed by the renewal date assigned to it, but has not yet been placed on inactive status.

Q. “**Inactive status**” occurs when a massage therapist’s license or massage therapist instructor’s registration is not renewed by the end of the grace period allowed for in the licensee’s or registrant’s renewal cycle. A license or registration can also be placed on inactive status for a period of two (2) years. If the inactive license or registration is not reactivated within those two (2) years, it automatically expires, lapses and becomes null and void.

R. “**Inactive status period**” refers to a period not to exceed two (2) years and only applies to massage therapists and massage therapy instructors.

S. “**Jurisprudence**” means an examination covering the Massage Therapy Practice Act and the board’s rules and regulations, 16.7 NMAC.

T. “**Lapsed status**” means the license or registration is null and void, is no longer valid and cannot be reactivated.

U. “**Licensee**” means a person whose professional conduct is subject to regulation by the board.

V. “**Manual**” means by use of hands or body.

W. “**Massage therapist**” means a person licensed to practice massage therapy pursuant to the New Mexico Massage Therapy Practice Act, NMSA 1978, Section 61-12C-3E.

X. “**Massage therapy**” means the assessment and treatment of soft tissues and their dysfunctions for therapeutic purposes primarily for comfort and relief of pain. It is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion, and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. Massage therapy is the deformation of soft tissues from more than one anatomical point by manual or mechanical means to accomplish homeostasis or pain relief in the tissues being deformed, as defined in the Massage Therapy Practice Act, NMSA 1978, Section 61-12C-3.E.

Y. “**Massage therapy instructor**” refers to a school based instructor or an independent instructor who is registered by the board.

Z. “**Massage Therapy Practice Act**” refers to NMSA 1978, Sections 61-12C-1 et seq. (as amended through 1999).

AA. “**Massage therapy school**” means a facility providing an educational program in massage therapy that is registered by the board.

BB. “**MBLEX**” means the massage and bodywork licensing examination.

CC. “**Mechanical**” means any tool or device that mimics or enhances the actions possible by the hands.

DD. “**National certification examination**” means the national certification examination for therapeutic massage and bodywork (NCETMB) or the national certification examination for therapeutic massage (NCETM).

EE. “**Notice of contemplated action**” means the administrative process used by the board for a licensee, registrant or applicant for licensure or registration to be afforded notice and an opportunity to be heard in a formal hearing before the board, before the board has authority to take any action which would result in denial, suspension, revocation, restriction, probation, monitoring, censuring, etc., of a license, registration, application or licensure or registration.

FF. “**Null and void status**” means the license or registration is no longer valid and cannot be reactivated.

GG. “**Official examination results**” mean official pass/fail reports that the applicant has made arrangements to be sent directly to the board by the national certification board for therapeutic massage and bodywork or the federation of state massage therapy boards.

HH. “**Official transcripts**” means those transcripts provided to the board office by the massage therapy school where the applicant received training.

II. “**Permanent license**” means a license issued once the applicant has met all the requirements for licensure as set forth in this regulation, but which must be kept updated by meeting the board’s renewal and

continuing education requirements, and which is subject to disciplinary action by the board for violations of the board's statute or regulations, up to an including revocation.

JJ. "Professional massage therapy experience" means lawful massage therapy services performed for compensation.

KK. "Professional relationship" means a business relationship between a licensee and a client for the purpose of the client obtaining the licensee's "professional services.

LL. "Professional services" means all actions of the licensee in the context of a "professional relationship" with a client.

MM. "Related hands-on modalities" means manual therapies, not directly defined as massage therapy.

NN. "Renew" means to begin again after an interval of time; to make valid again for a further period.

OO. "Renewal date" means the deadline date upon which the license or registration must be made valid again for another period of time.

PP. "Respondent" means a licensee, registrant or applicant for licensure or registration who is governed under the Massage Therapy Practice Act, and who is the subject of a complaint.

QQ. "Semester hour" or "credit hour" means one (1) semester credit hour, which is equivalent to fifteen (15) class or contact hours.

RR. "Sexual conduct" includes, but is not limited to, sexual intercourse, indecent exposure, sexual assault, non-therapeutic ano-genital contact or any offer or agreement to engage in any such activities.

SS. "Soft tissue" includes skin, adipose, muscle and myofascial tissues.

TT. "Student" means an individual currently enrolled in or attending class(es) in a massage therapy program under the jurisdiction of the New Mexico state board of massage therapy.

UU. "Teaching assistant" means an individual who assists the registered instructor in class. Any instruction to students must be performed while under the direct supervision of the registered massage therapy instructor.

VV. "Temporary license" means a license issued one-time only for a maximum period of three (3) months to practice massage therapy while the application for permanent license is in process, and which may only be issued to applicants who have never sat for a licensing examination.

WW. "Treatment of soft tissues" is the repetitive deformation of soft tissues from more than one anatomical point by manual or mechanical means to accomplish homeostasis or pain relief in the tissues being deformed.

XX. "Uniform Licensing Act" refers to NMSA 1978, Sections 61-1-1 et seq. (as amended through 2003).
[2-16-92; 4-25-92; 12-16-92; 2-4-94; 7-28-96; 5-11-97; 7-30-99; 12-24-99; 16.7.1.7 NMAC - Rn & A, 16 NMAC 7.1.7, 06-28-01; A, 06-24-05; A, 09-04-09]

16.7.1.8 SCOPE OF PRACTICE: Assess and treat soft tissues and their dysfunctions for therapeutic purposes primarily for comfort and relief of pain. The health care service includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion, and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Massage therapy is the deformation of soft tissues from more than one (1) anatomical point by manual or mechanical means to accomplish homeostasis or pain relief in the tissues being deformed, as defined in the Massage Therapy Practice Act, Paragraph (E) Section 61-12C-3 NMSA 1978.

16.7.1.8 NMAC - N, 3/31/15

16.7.1.9 MASSAGE THERAPY LICENSE AND REGISTRATION:

A. License/registration display:

(1) A current license/registration must be displayed and must be visible to the public in the principal place of employment or business of the massage therapist or registrant.

(2) A licensee/registrant must practice massage therapy or provide massage therapy training under the name inscribed on the license or registration.

B. Duplicate/replacement license or wall certificate:

(1) The board will issue a duplicate/replacement license or upon receipt of a written request which states the reason for such duplication or replacement (for example: it was lost, stolen, destroyed; or name was legally changed). A replacement license is available for a fee as defined in Subsection D 16.7.3.8 NMAC; and

(2) The records of the board are to reflect that a duplicate/replacement license or wall certificate was issued.

C. Name change:

(1) Any name change requires that a replacement license or registration be issued. The board will issue a replacement license or registration upon receipt of a copy of the legal document (marriage certificate, divorce decree or court order accepted). A change of name form is available from the board's website or from the board office; and

(2) A licensee or registrant not wishing to request a replacement license or registration must continue to use the name as initially issued on the license or registration, until the requirements of Paragraph 1 of Subsection C of 16.7.1.8 NMAC, above have been met.

D. Address change: Licenses and registrations are mailed to the license or registration holder's last mailing address as noted in the records of the board. Therefore, licensees and registrants shall maintain a current mailing address with the board by immediately notifying the board office in writing whenever a change of an address has occurred. A change of address form is available from the board's website or from the board office.

E. License and registration property of the board: All licenses and registrations are the property of the board and will immediately be returned to the board upon request.

[10-9-92; 7-28-96; 12-24-99; 16.7.1.8 NMAC - Rn & A, 16 NMAC 7.1.8, 06-28-01; A, 06-24-05; 16.7.1.9 NMAC - Rn & A, 16.7.1.8 NMAC, 3/31/15]

16.7.1.10 INSPECTION OF BOARD RECORDS:

A. The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-16 NMSA 1978.

B. The board administrator is the custodian of the board's records.

C. Any one may examine all public records in the board's custody, provided the person gives advance notice to the board administrator in accordance with the Inspection of Public Records Act.

D. The board may provide copies of public records upon request and upon payment of a copying fee in accordance with Subsection D of 16.7.3.8 NMAC, or as may be ordered by a court of competent jurisdiction.

E. Only the board's staff is authorized to remove original board documents from the board's office for the purpose of attending board or committee meetings or other board business.

F. The board office is not obligated to create lists, labels or any other materials that are not already in existence.

[7-28-96; 7-30-99; 16.7.1.9 NMAC - Rn, 16 NMAC 7.1.9, 06-28-01; A, 06-24-05; 16.7.1.10 NMAC - Rn, 16.7.1.9 NMAC, 3/31/15]

16.7.1.11 PUBLIC RECORDS: Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of a public record as of the time of filing with or by the board.

[7-28-96; 16.7.1.10 NMAC - Rn, 16 NMAC 7.1.10, 06-28-01; 16.7.1.11 NMAC - Rn, 16.7.1.10 NMAC, 3/31/15]

16.7.1.12 NON-PUBLIC RECORDS:

A. Except as provided herein and except as otherwise provided by law, the following records will be considered confidential and are not subject to public inspection:

(1) letters of reference;

(2) medical reports or records of chemical dependency, physical or mental examinations or treatment;

(3) examination scores; the contents of any examination used to test for an individual's knowledge or competence;

(4) investigative files; and

(5) matters of opinion.

B. Only board members and board staff may have access to non-public records, unless approved by the board attorney or ordered by a court of competent jurisdiction.

[7-28-96; 16.7.1.11 NMAC - Rn, 16 NMAC 7.1.11, 06-28-01; 16.7.1.12 NMAC - Rn, 16.7.1.13 NMAC, 3/31/15]

16.7.1.13 TELEPHONE CONFERENCES: If it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate through telephone conference. Each member participating by telephone conference must be identified when speaking; all participants must be able to hear each other at the same time; and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting.

[7-30-99; 16.7.1.12 NMAC - Rn, 16 NMAC 7.1.12, 06-28-01; 16.7.1.13 NMAC - Rn, 16 7.1.12 NMAC, 3/31/15]

HISTORY OF 16.7.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 92-1, Definitions, 1-17-92

Rule 92-1, Definitions, 9-9-92

Regulation 1, Definitions, 1-5-94

History of Repealed Material: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 2 PROFESSIONAL CONDUCT

16.7.2.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board.
[1-11-96; 16.7.2.1 NMAC - Rn, 16 NMAC 7.2.1, 06-28-01; A, 3/31/15]

16.7.2.2 SCOPE: This part applies to the conduct of licensees, registrants and applicants, including the applicant's conduct during the period of education and training, and which is required for licensure.
[1-11-96 ... 7-28-96; 16.7.2.2 NMAC - Rn, 16 NMAC 7.2.2, 06-28-01]

16.7.2.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-8.J.
[1-11-96; 16.7.2.3 NMAC - Rn, 16 NMAC 7.2.3, 06-28-01]

16.7.2.4 DURATION: Permanent.
[1-11-96; 16.7.2.4 NMAC - Rn, 16 NMAC 7.2.4, 06-28-01]

16.7.2.5 EFFECTIVE DATE: January 11, 1996, unless a different date is cited at the end of a section.
[1-11-96 ... 7-28-96; 16.7.2.5 NMAC - Rn, 16 NMAC 7.2.5, 06-28-01; A, 3/31/15]

16.7.2.6 OBJECTIVE: This part is to establish the standards against which the required professional conduct of a massage therapist is measured. Each licensee and registrant will be governed by this part whenever providing massage therapy services in a professional context. A violation of this part is sufficient reason for disciplinary action pursuant to the Massage Therapy Practice Act under the Uniform Licensing Act.
[1-11-96 ... 7-28-96; 12-24-99; 16.7.2.6 NMAC - Rn, 16 NMAC 7.2.6, 06-28-01]

16.7.2.7 DEFINITIONS: [RESERVED]
[1-11-96; 16.7.2.7 NMAC - Rn, 16 NMAC 7.2.7, 06-28-01; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.2.8 CODE OF PROFESSIONAL CONDUCT:

- A. Competence:** Each licensee, instructor and applicant shall:
- (1) limit practice and instruction to the areas of competence in which proficiency has been gained through education, training, and experience and refer clients to other health professionals when appropriate.
 - (2) acknowledge the limitations of and contraindications to massage therapy and will not encourage unnecessary or unjustified treatment; and
 - (3) not delegate professional responsibilities to a person who is not qualified or licensed to perform them.
- B. Dual relationship:** It is presumed that a power imbalance exists in professional relationships between licensees and clients. Therefore each licensee, in interacting with a client or former client to whom the licensee has at anytime within the previous three (3) months rendered massage therapy or instruction, shall not engage in romantic or sexual conduct.
- C. Client welfare:** Each licensee, instructor and applicant shall:
- (1) conduct their business and professional activities with honesty and integrity.
 - (2) obtain prior informed consent of the client regarding draping and treatment to ensure the safety, comfort and privacy of the client.
 - (3) provide privacy for the client while the client is dressing or undressing.
 - (4) modify or terminate treatment at the client's request, regardless of prior consent.
 - (5) refuse to treat any person or part of the body for just and reasonable cause.
 - (6) not undertake or continue treatment with a client when the licensee is impaired due to mental, emotional or physiologic conditions including substance or alcohol abuse.
 - (7) maintain clean equipment, linens, clothing and work areas.
 - (8) not engage in any verbally or physically abusive behavior; or
 - (9) take unfair advantage of the client for financial gain.

D. Confidentiality of clients: Each licensee shall safeguard confidential information of the client, unless disclosure is required by law, court order, authorized by the client or absolutely necessary for the protection of the public.

E. Representation of services: Each licensee, instructor and applicant shall:

(1) disclose to the client the schedule of fees for services prior to treatment.
(2) not misrepresent directly or by implication of his professional qualifications such as type of licensure, education, experience, or areas of competence.

(3) not falsify professional records.

(4) include in any advertisement for massage:

(a) his full name as licensed with the board and license number; and

(b) the designation or abbreviation as a "licensed massage therapist" or "LMT"; "registered massage therapy instructor" or "RMTI"; and "registered massage therapy school" or "RMTS".

(5) When offering gratuitous services or discounts in connection with professional services, each licensee must clearly and conspicuously state whether or not additional charges may be incurred by related services and the possible range of such additional charges; and

(6) not advertise massage therapy services or instruction, which contains:

(a) a false, fraudulent, misleading, deceptive statement; or

(b) suggestion of sexual stimulation.

F. Violation of the law: Each licensee, instructor and applicant shall *not*:

(1) violate any applicable statute or administrative regulation governing the practice of massage therapy.

(2) use fraud, misrepresentation, or deception in obtaining a massage therapy license or renewal, in passing a massage therapy licensing examination, in assisting another to obtain a massage therapy license or to pass a massage therapy licensing examination, in providing massage therapy services, or in conducting any other activity related to the practice of massage therapy.

G. Resolving professional conduct issues: Each licensee, instructor and applicant shall:

(1) have an obligation to be familiar with this part. Lack of knowledge of professional conduct standard is not itself a defense to a charge of unethical conduct.

(2) cooperate with investigations, proceedings, and resulting requirements of this part. Failure to cooperate is itself an ethics violation.

[1-11-96; 5-11-97; 12-24-99; 16.7.2.8 NMAC - Rn, 16 NMAC 7.2.8, 06-28-01; A, 3/31/15]

HISTORY OF 16.7.2 NMAC: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 3 FEES

16.7.3.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[7-28-96; 6-1-99; 16.7.3.1 NMAC - Rn & A, 16 NMAC 7.3.1, 06-28-01; A, 06-24-05]

16.7.3.2 SCOPE: This part applies to licensees, registrants, and applicants for licensure and registration.
[7-28-96; 16.7.3.2 NMAC - Rn, 16 NMAC 7.3.2, 06-28-01]

16.7.3.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-20.
[7-28-96; 16.7.3.3 NMAC - Rn, 16 NMAC 7.3.3, 06-28-01]

16.7.3.4 DURATION: Permanent.
[7-28-96; 16.7.3.4 NMAC - Rn, 16 NMAC 7.3.4, 06-28-01]

16.7.3.5 EFFECTIVE DATE: July 28, 1996, unless a later date is cited at the end of a section.
[7-28-96; 16.7.3.5 NMAC - Rn, 16 NMAC 7.3.5, 06-28-01; A, 06-24-05]

16.7.3.6 OBJECTIVE: This part is to establish the required fees for application, examination, licensure, registration, renewal, reactivation of a license, duplicate/replacement license or certificate, verification of licensure or registration, and such other fees as determined by the board.
[7-28-96; 16.7.3.6 NMAC - Rn, 16 NMAC 7.3.6, 06-28-01]

16.7.3.7 DEFINITIONS: [RESERVED]
[7-28-96; 16.7.3.7 NMAC - Rn, 16 NMAC 7.3.7, 06-28-01; A, 06-24-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.3.8 FEE SCHEDULE:

A. Massage therapist:

- (1) Application: \$75.00
- (2) Initial license: Pro-rated \$5.00/mo.
- (3) Temporary license: \$25.00
- (4) Biennial renewal: \$125.00
- (5) Late renewal penalty: \$75.00
- (6) Renewal during the grace period: \$125.00 plus late renewal penalty fee
- (7) Reactivation from inactive status: \$125.00 plus late renewal penalty fee
- (8) Review fee for "other" elective courses as provided in 16.7.4.14 NMAC: \$50.00

B. Massage therapy instructor:

- (1) Registration: \$50.00
- (2) Biennial renewal - school based: \$25.00
- (3) Biennial renewal - independent: \$50.00
- (4) Visiting massage therapy instructor: \$50.00
- (5) Late renewal penalty: \$75.00
- (6) Renewal during the grace period: \$50.00 plus late renewal penalty
- (7) Reactivation from inactive status: \$50.00 plus late renewal penalty fee

C. Massage therapy school:

- (1) Registration: \$50.00
- (2) Annual renewal: \$50.00
- (3) Late renewal penalty: \$75.00
- (4) Application review: \$400.00
- (5) Curriculum change review: \$50.00

D. Administrative fees:

- (1) Paper lists: \$50.00

- (2) Labels: \$75.00
- (3) Electronic list: \$125.00
- (4) Replacement license: \$25.00
- (5) Verification of license \$15.00
- (6) Other administrative fees (at the discretion of the board or board administrator) not to

exceed \$500.00

E. ALL FEES COLLECTED BY THE BOARD ARE NON-REFUNDABLE.

[2-16-92 ... 7-28-96; 6-1-99; 12-24-99; 16.7.3.8 NMAC - Rn & A, 16 NMAC 7.3.8, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

HISTORY OF 16.7.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 92-6, Fees, 1-17-92

Rule 92-6, Fees, 9-9-92

Rule 92-6, Fees, 11-19-92

Rule 6, Fees, 9-3-93

Regulation 6, Fees, 1-5-94

History of Repealed Material: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 4 REQUIREMENTS FOR LICENSURE

16.7.4.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[16.7.4.1 NMAC - Rp, 16.7.4.1 NMAC, 07-28-05]

16.7.4.2 SCOPE: This part applies to applicants for licensure.
[16.7.4.2 NMAC - Rp, 16.7.4.2 NMAC, 07-28-05]

16.7.4.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Sections 61-12C-8.B, 61-12C-8.C, 61-12C-9 and 61-12C-16.
[16.7.4.3 NMAC - Rp, 16.7.4.3 NMAC, 07-28-05]

16.7.4.4 DURATION: Permanent.
[16.7.4.4 NMAC - Rp, 16.7.4.4 NMAC, 07-28-05]

16.7.4.5 EFFECTIVE DATE: July 28, 2005, unless a later date is cited at the end of a section.
[16.7.4.5 NMAC - Rp, 16.7.4.5 NMAC, 07-28-05]

16.7.4.6 OBJECTIVE: This part is to establish the minimum requirements for applicants applying for licensure by examination, temporary licensure and licensure by credentials, and to establish the licensure procedures.
[16.7.4.6 NMAC - Rp, 16.7.4.6 NMAC, 07-28-05]

16.7.4.7 DEFINITIONS: [RESERVED]
[16.7.4.7 NMAC - Rp, 16.7.4.7 NMAC, 07-28-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.4.8 LICENSE OR REGISTRATION REQUIRED:

A. Massage therapists: A person must be licensed by the board in order to legally provide or offer to provide massage therapy as defined in 16.7.1.7 NMAC; or to use the title or represent him/herself to be a massage therapist; or to use any other title, abbreviations, letters, figures, signs or devices that indicate the person is a massage therapist.

B. Massage therapy instructors: A person shall be registered by the board, as a registered massage therapy instructor, as set forth in 16.7.6 NMAC, in order to legally provide or offer to provide any massage therapy training as a massage therapy instructor.

C. Massage therapy schools: Massage therapy schools must be registered by the board, as set forth in 16.7.5 NMAC, before they can legally operate and offer education, instruction or training in massage therapy.
[16.7.4.8 NMAC - N, 07-28-05; A, 09-04-09; A, 3/31/15]

16.7.4.9 LICENSURE EXEMPTIONS: The following are exempted from licensure by the board pursuant to Section 61-12C-5.1 of the Massage Therapy Practice Act.

A. Other professionals licensed in or regulated by another New Mexico licensing board or agency rendering services within the scope of their authorizing law or regulation, provided they do not represent themselves as massage therapists.

B. Massage therapy students who are rendering massage therapy services within the course of study of a registered massage therapy school or under the supervision of a registered massage therapy instructor.

C. Massage therapy instructors visiting New Mexico who have met the requirements set forth in 16.7.6.11 NMAC.

D. Sobadores; Hispanic traditional healers; Native American healers; reflexologists whose practices are limited to hands, feet and ears; practitioners of polarity, Trager approach, Feldenkrais method, craniosacral therapy, Rolfing structural integration, reiki, ortho-bionomy or ch'i gung; or practitioners of healing modalities not listed in this subsection who do not manipulate the soft tissues for therapeutic purposes from practicing those skills. However, if any of these persons applies for and is granted a license pursuant to the Massage Therapy Practice Act,

that person shall comply with all licensure requirements and be subject to the provisions of the boards' statute and regulations.

[16.7.4.9 NMAC - N, 07-28-05; A, 09-04-09]

16.7.4.10 GENERAL PROVISIONS FOR LICENSURE:

A. Age: The applicant must be eighteen (18) years of age or older on the date the application is submitted.

B. Pre-requisite education to massage therapy training: The applicant must have completed high school or its equivalent.

C. Photograph: The applicant must provide a 2"x 2" head and shoulders frontal view photograph taken of the applicant within the six (6)-months prior to making application for licensure.

D. Application fee: The applicant must pay the required application-processing fee as set forth in Subsection D of 16.7.3.8 NMAC of the board's regulations.

E. Board-approved application form: The applicant must provide a completed, legible board-approved application form that must either be typed or printed in black ink, along with any other documents required in the board's application process.

(1) Incomplete application for licensure forms will be returned to the applicant for completion.

(2) Faxed application for licensure forms will not be accepted.

F. First aid and Cardiopulmonary Resuscitation (CPR): The applicant must have completed four (4) contact course hours of cardiopulmonary resuscitation (CPR) to include automatic external defibrillator (CPR/AED) and four (4) contact course hours of first aid and must provide proof, with the application, of current certification in basic life support accepted by EMS safety services, the American heart association or the American red cross. *No* on-line courses will be accepted. Courses must be maintained in current standing.

[16.7.4.10 NMAC - Rp, 16.7.4.8 NMAC, 07-28-05; A, 09-04-09; A, 3/31/15]

16.7.4.11 MASSAGE SCHOOL REQUIREMENT: The applicant for licensure as a massage therapist must have graduated from a massage therapy school approved to operate as a private post-secondary educational institution or its equivalent.

A. Out-of-state or multiple schools: The applicant who has graduated from an out-of-state massage therapy school or who has attended more than one massage therapy school must make arrangements for the school to provide the following items.

(1) The board's form "A" completed and submitted directly to the board by the massage therapy school(s) that the applicant attended as provided in 16.7.4.13 NMAC.

(2) An official transcript submitted directly to the board by the school(s) that meets the requirements in Subsection B of 16.7.4.11 NMAC.

(3) Proof that the school is approved to operate as a private post-secondary educational institution or its equivalent. The respective state's department of higher education usually grants this approval. The name of the agency or entity may vary from state to state.

B. Official transcripts of massage therapy training: The applicant shall make arrangements for official transcript(s) to be sent directly to the board by the educational institution documenting that the applicant has completed a minimum of six hundred fifty (650) hours of massage therapy training as provided in 16.7.4.12 NMAC.

(1) If more than one massage therapy school was attended, at least one official transcript must document a minimum of 300 class hours of training in massage therapy as defined in 16.7.4.7 NMAC above.

(2) Continuing education (CE) or continuing education units (CEU) may be accepted toward the educational requirements for licensure.

(3) If official transcripts are not available due to unusual circumstances (example: school closure, destroyed records), the applicant will be responsible to provide satisfactory evidence to the board that he/she has met the required massage therapy training. The board shall consider such documentation on a case-by-case basis.

[16.7.4.11 NMAC - Rp, 16.7.4.9 NMAC, 07-28-05]

16.7.4.12 MINIMUM HOURS OF MASSAGE THERAPY TRAINING: The applicant must have completed at least a six hundred fifty (650) hour program in massage therapy training. The massage therapy training must meet the following minimum curriculum requirements:

- A. one hundred sixty five (165) hours minimum of anatomy and physiology, to include:**
- (1) physiology;
 - (2) anatomy;
 - (3) kinesiology; and
 - (4) forty (40) hours minimum of pathology.
- B. one hundred fifty (150) hours minimum of training in massage therapy** as defined in 16.7.1.7 NMAC.
- (1) The massage therapy training shall include contraindications of massage therapy.
 - (2) A minimum of one hundred (100) hours of hands on training must be completed before the student is allowed to begin a clinical practicum as defined in 16.7.1.7 NMAC.
- C. seventy five (75) hours minimum of general instruction** to include.
- (1) business;
 - (2) hydrotherapy;
 - (3) thirty (30) hours minimum of professional ethics;
 - (4) four (4) hours of first aid; and
 - (5) four (4) hours of cardiopulmonary resuscitation to include automatic external defibrillation (CPR/AED).
- D. Electives may include:**
- (1) additional massage therapy;
 - (2) related hands-on modalities;
 - (3) additional anatomy and physiology;
 - (4) clinical practicum (not to exceed one hundred fifty (150) hours);
 - (5) counseling;
 - (6) herbology;
 - (7) homeopathy;
 - (8) nutrition;
 - (9) breathing and stretching techniques;
 - (10) theory; and
 - (11) other courses with prior board approval. See 16.7.4.14 NMAC for instructions.
- E.** The total number of hours in the massage therapy program is a minimum of six hundred fifty (650) hours.
- F.** If an applicant is missing a core curriculum course or is missing a small portion of the core curriculum to complete the six hundred fifty (650) hour requirement, the applicant may obtain the training course(s) from a registered independent massage therapy instructor, or from a massage therapy school that meets the requirements in 16.7.4.13 NMAC.
- G.** The board will accept professional work experience (not to exceed one hundred fifty (150) hours) from applicants with documented proof accounting for all hours by completing Form C. These hours must have been performed legally and the applicant must provide proof of licensure or registration during the time the work was performed.
- 16.7.4.12 NMAC - N, 07-28-05; A, 06-08-06; A, 09-04-09; A, 3/31/15]

16.7.4.13 FORM “A” FROM MASSAGE SCHOOL REQUIREMENT:

- A.** The following circumstances require that the applicant’s massage school(s) submit a completed “form A for massage school” to the board office along with an official transcript and proof that the massage therapy school(s) is/was approved to operate as a private post-secondary educational institution or its equivalent at the time the applicant attended the school(s):
- (1) if the applicant attended a massage school that is located out-of-state; or
 - (2) if the applicant has attended more than one massage therapy school whether in-state or out-of-state; or
 - (3) if the applicant graduated from a massage therapy school more than two (2) years ago.
- B.** The “form A for massage school” contains four sections corresponding to Subsections A, B, C, and D of 16.7.4.12 NMAC, and each section must be completed correctly to prevent delays in the applicant’s licensure process.

(1) An hourly breakdown must be provided for each course/category/subject listed that the school provided in the curriculum that the applicant completed. If a subject is taught within another subject, the school should provide a written explanation on school letterhead and attached to the form "A".

(2) If there are no hours specified next to a course/category/subject, it will be an indication to the board that the course/category/subject was NOT part of the school's curriculum.
[16.7.4.13 NMAC - N, 07-28-05; A, 09-04-09]

16.7.4.14 ELECTIVE COURSES IN THE "OTHER" CATEGORY: If an applicant has attended a massage therapy training program that is not a registered massage therapy school and/or provides proof of completion of elective courses that falls under the "other" category in Paragraph (11) of Subsection D of 16.7.4.12 NMAC, the course(s) will be reviewed on a case-by-case basis and may be accepted by the board. The applicant must provide the following.

- A. A separate written request for consideration of the course(s).
 - B. An official transcript that clearly names the course(s) to be considered.
 - C. A copy of the school catalog that clearly describes the course(s) to be considered. In accordance with Paragraph (2) of Subsection B of 16.7.4.11 NMAC, continuing education will NOT be accepted.
 - D. An administrative review fee as set forth in Paragraph 7 of Subsection A of 16.7.3.8 NMAC.
- [16.7.4.14 NMAC - N, 07-28-05]

16.7.4.15 DOCUMENTS IN A FOREIGN LANGUAGE: Any document submitted in a foreign language must be accompanied by an accurate translation in English.

- A. Each translated document must bear the affidavit of the certified translator attesting to it being a true and complete translation of the original document:
- B. of the organization that granted the translator certification:
- C. Each translated document must bear a notary seal and signature swearing that the document is that of the applicants; and

The affidavit must also contain the translator's contact information, including name, address and phone number

- D. Translation of any document relevant to a person's application will be at the expense of the applicant.

[16.7.4.15 NMAC - Rp, 16.7.4.9 NMAC, 07-28-05; A, 3/31/15]

16.7.4.16 SPECIFIC PROVISIONS FOR A TEMPORARY LICENSE: A license issued one (1)-time only for a maximum period of three (3) months to practice massage therapy while the application for permanent license is in process, and which may only be issued to applicants who have never sat for a licensing examination.

A. Qualifications for temporary license:

(1) The applicant for temporary license must meet all the requirements set forth in Sections 16.7.4.10 through 16.7.4.15 NMAC.

(2) The applicant for temporary license must not have previously sat for the national certification examination for therapeutic massage and bodywork (NCETMB), the national certification examination for therapeutic massage (NCETM) or the massage board licensing examination (MBLEx).

(3) The applicant may obtain a temporary license while waiting to sit for the national examination.

(4) Upon submitting the application for licensure, the applicant for a temporary license must submit a temporary license fee, as set forth in Subsection D of 16.7.3.8 NMAC.

(5) The board may deny issuance of a temporary license for the same reasons a permanent license may be denied.

B. Issuance of the temporary license:

(1) The applicant for temporary license may not begin work until the temporary license has been issued by the board, has been received by the licensee, and has been publicly posted in principal place of practice.

(2) The temporary licensee may *not* advertise in the yellow pages or other similar advertising book.

(3) The temporary licensee must keep the board informed at all times of any change in address and contact phone number(s).

(4) If the temporary license has not yet expired and the board receives official notice that the temporary licensee has passed a national examination, the temporary license will automatically become null and void. Provided that all other requirements have been met, a permanent license will be issued when payment of the initial license fee has been made.

C. Surrender of temporary license required:

(1) If a temporary license holder fails the national examination, the temporary license immediately becomes null and void and must be surrendered directly to the board office within fifteen (15) days of the examination date; and the privileges to practice authorized by the temporary license are no longer valid.

(2) Expired or null and void temporary licenses shall be surrendered to the board.

(3) If an applicant, who holds a temporary license that must be surrendered, has misplaced or lost the temporary license and cannot return it to the board as required, the applicant must provide the board with an affidavit attesting that the license has been lost or misplaced and that the applicant is no longer practicing massage therapy.

[16.7.4.16 NMAC - Rp, 16.7.4.11 NMAC, 07-28-05; A, 3/31/15]

16.7.4.17 SPECIFIC PROVISION FOR PERMANENT LICENSURE: The applicant must meet all the requirements set forth in Sections 16.7.4.10 through 16.7.4.15 NMAC, in addition to the following requirements:

A. Jurisprudence examination: The applicant for permanent licensure must successfully pass the board's jurisprudence examination as set forth in 16.7.10.8 NMAC.

B. National certification examination: The applicant must successfully pass the national certification examination for therapeutic massage and bodywork (NCETMB), or the national examination for therapeutic massage (NCETM) as provided in 16.7.10.9 NMAC, and must make arrangements for the national examining agency to send official examination results, as defined in 16.7.4.7 NMAC, directly to the board.

C. MBLEx: The applicant must successfully pass the massage and bodywork licensing examination, and must make arrangements for the examining agency to send official examination results directly to the board.

D. Licensure fee: Upon written notification, sent by the board that the applicant has met all other requirements for licensure, the applicant must submit the initial license fee as stated in the notification based on the fee structure set forth in Subsection A of 16.7.3.8 NMAC.

(1) The initial licensure fee must be paid in full before the permanent license will be issued.

(2) If the applicant fails to pay the initial license fee within thirty (30) days of receipt of the notification of approval, the application will be deemed withdrawn and subject to the provisions in 16.7.4.19 NMAC.

[16.7.4.17 NMAC - N, 07-28-05; A, 09-04-09; A, 3/31/15]

16.7.4.18 REQUIREMENTS FOR LICENSURE BY CREDENTIALS:

A. In addition to the requirements in Sections 16.7.4.10 through 16.7.4.15 and 16.7.4.17 NMAC, the applicant for licensure by credentials must provide verification of a current, valid massage therapy license in another state/territory of the United States, the District of Columbia or foreign nation.

(1) Verification of licensure or registration as a massage therapist must be sent directly to the board by the other licensing jurisdiction.

(2) The license to practice massage therapy must be in good standing. A prior disciplinary action by another licensing jurisdiction, related to health, safety and welfare, or any other civil or criminal issues will be evaluated by the board on a case by case basis. The review may lead to the issuance of a conditional or provisional license or to other disciplinary action up to and including denial of licensure.

B. The applicant must have met educational and examination requirements in the other jurisdiction equal to or exceeding New Mexico's educational and examination requirements.

[16.7.4.18 NMAC - Rp, 16.7.4.10 NMAC, 07-28-05; A, 09-04-09]

16.7.4.19 APPLICATION EXPIRATION, WITHDRAWAL, AND DESTRUCTION:

A. Expiration or withdrawal of application: The application for licensure expires as follows and all previously paid fees will be forfeited if:

(1) the applicant fails to complete all requirements for temporary or permanent licensure within one (1) year from the date the applicant's application file is started by board office staff; or

(2) the applicant withdraws the application, either by notifying the board in writing or by not paying the initial license fee within the time allowed in Subsection C of 16.7.4.17 NMAC.

B. If the applicant still wishes to seek licensure after the application has expired or been withdrawn and it is still within one (1) year after the application expired was withdrawn, the applicant shall complete the following procedure.

(1) Submit a "reapplication form for withdrawn or expired application".

(2) Submit whatever the application fee is at the time of reapplication.

(3) Complete any other requirements or submit any other documentation pending when the application was expired or withdrawn.

C. Application destruction: The board will maintain the expired or withdrawn application file for a period of one (1) year after the expiration or withdrawal date.

(1) After that date, the file will be purged from the board's records and destroyed.

(2) The applicant whose application has been purged from the board's records must complete the entire application process again if, in the future, they are interested in licensure.

D. Temporary license unavailable: The option for a temporary license will no longer be available to a person whose application has expired, been withdrawn, or been destroyed from the board's records.

[16.7.4.19 NMAC - N, 07-28-05; A, 3/31/15]

16.7.4.20 INITIAL LICENSE PERIOD: The applicant who has met all the requirements for licensure shall be issued an initial license for a period of up to two years, depending on when in the renewal cycle the initial license is issued, in order to schedule the license to renew on October 31.

A. The first renewal cycle may be for as short a period as one year and the initial license fee may be prorated accordingly based on the fee structure set forth in Subsection A of 16.7.3.8 NMAC.

B. After the license is renewed the first time, the license will be scheduled into a biennial cycle and will be renewed every two years.

[16.7.4.20 NMAC - Rp, 16.7.4.12 NMAC, 07-28-05]

16.7.4.21 DISPLAY OF LICENSE: While performing massage therapy the licensee must display their current license to practice massage therapy in a conspicuous place of their practice location or place of business.

[16.7.4.21 NMAC - N, 07-28-05; A, 3/31/15]

16.7.4.22 ADDRESS AND EMPLOYMENT PRACTICE CHANGES: It is the licensee's responsibility to provide written notification to the board of any changes in addresses, phone numbers, and practice location(s) within thirty (30) days in order that renewal notices and other correspondence from the board will be received by the licensee in a timely manner, and in order for the board to be able to maintain accurate licensing records. A form is available for this purpose from the board office or from the board's website at www.rld.state.nm.us, or a letter to the board advising of the changes will also be adequate.

[16.7.4.22 NMAC - N, 07-28-05; A, 3/31/15]

16.7.4.23 ELECTRONIC APPLICATIONS: In accordance with the Uniform Electronic Transactions Act, Sections 14-16-1 through 14-16-21 NMSA 1978, the board or its designee will accept electronic application.

A. A person seeking licensure as a New Mexico massage therapist or registrant may do so by submitting an electronic application. Applicants shall submit all information as required by 16.7.4 NMAC.

B. A massage therapist may renew his or her license, and a registrant may renew his or her registration, electronically through a designated website provided by the board. A person renewing his or her license or certificate shall submit all documentation as required by 16.7.12 NMAC

C. A massage therapist or registrant who is currently on inactive status may submit an electronic applications requesting reactivation of his or her license or registration. A person requesting reactivation of his or her license or registration shall submit all documentation as required by the Massage Therapy Practice Act, Section 61-12C-18 NMSA 1978, and 16.7.12.9 and 16.7.12.15 NMAC.

D. A person whose massage therapy license or registration has been suspended or revoked, or has expired, may in accordance with the Massage Therapy Act, the board's rules and any lawful board or court order, submit an electronic application seeking reinstatement. Applicants shall submit all information as required by the Massage Therapy Practice Act, NMSA 1978. Chapter 61, Article 12C NMSA and the board's rules.

[16.7.12.9 NMAC - N 3/31/15]

HISTORY OF 16.7.4 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the State Records Center and Archives under: Rule 92-2, Requirements for Licensure, 1-17-92

Rule 92-2, Requirements for Licensure, 9-9-92;
Regulation 2, Requirements for Licensure, 1-5-94;
Rule 92-3, Licensure Without Examination, 1-17-92;
Rule 92-3, Licensure by Credentials, 9-9-92;
Regulation 3, Licensure by Credentials, 1-5-94;
Rule 92-4, Application Procedure, 1-17-92;
Rule 92-4, Application Procedure, 9-9-92;
Regulation 4, Application Procedure, 1-5-94;
Rule 92-5, Provisional License, 1-17-92;
Rule 92-5, Provisional License, 9-9-92;
Regulation 5, Temporary License, 1-5-94

History of Repealed Material:

16 NMAC 7.4, Requirements for Licensure - Repealed 12-24-99
16.7.4 NMAC, Requirements for Licensure - Repealed 7-28-05.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 5 REQUIREMENTS FOR SCHOOLS

16.7.5.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[12-24-99; 16.7.5.1 NMAC - Rn & A, 16 NMAC 7.5.1, 06-28-01; A, 07-28-05]

16.7.5.2 SCOPE: This part applies to applicants for a massage therapy school registration, and to registered massage therapy schools.
[12-24-99; 16.7.5.2 NMAC - Rn, 16 NMAC 7.5.2, 06-28-01]

16.7.5.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-8.B, 61-12C-8.F, 61-12C-10.
[12-24-99; 16.7.5.3 NMAC - Rn, 16 NMAC 7.5.3, 06-28-01]

16.7.5.4 DURATION: Permanent.
[12-24-99; 16.7.5.4 NMAC - Rn, 16 NMAC 7.5.4, 06-28-01]

16.7.5.5 EFFECTIVE DATE: December 24, 1999, unless a later date is cited at the end of section.
[12-24-99; 16.7.5.5 NMAC - Rn, 16 NMAC 7.5.5, 06-28-01; A, 07-28-05]

16.7.5.6 OBJECTIVE: This part is to establish the minimum application requirements for massage therapy schools, and to establish the standards for registered massage therapy schools.
[12-24-99; 16.7.5.6 NMAC - Rn, 16 NMAC 7.5.6, 06-28-01; A, 07-28-05]

16.7.5.7 DEFINITIONS: [RESERVED]
[12-24-99; 16.7.5.7 NMAC - Rn, 16 NMAC 7.5.7, 06-28-01; A, 07-28-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.5.8 REQUIREMENTS FOR REGISTRATION: At the time of application the applicant will provide the following information to the board.

A. A completed, legible application for licensure, which must either be typed or printed in black ink. Incomplete applications will not be accepted and will be returned to the applicant for completion.

B. A six hundred fifty (650) hour curriculum that must meet the following minimum requirements.

- (1) **one hundred sixty five (165) hours minimum of anatomy and physiology**, to include:
 - (a) physiology;
 - (b) anatomy;
 - (c) kinesiology; and
 - (d) forty (40) hours minimum of pathology.
- (2) **one hundred fifty (150) hours minimum of massage therapy** as defined in 16.7.1.7

NMAC.

(a) Shall include contraindications of massage therapy.

(b) A minimum of one hundred (100) hours of hands on training must be completed before a student may begin clinical practicum, as defined in Subsection G of 16.7.1.7 NMAC.

- (3) **seventy five (75) hours minimum of general instruction**, to include:

- (a) business;
- (b) hydrotherapy;
- (c) first aid - four (4) hours;
- (d) cardiopulmonary resuscitation and automatic external defibrillator (CPR/AED) -

four (4) hours;

(e) thirty (30) hours minimum of professional ethics.

- (4) **Electives** may include:

- (a) additional massage therapy;
- (b) related hands-on modalities;
- (c) additional anatomy and physiology;

- (d) clinical practicum (not to exceed one hundred fifty (150) hours);
- (e) counseling;
- (f) herbology;
- (g) homeopathy;
- (h) nutrition;
- (i) breathing and stretching techniques;
- (j) theory;
- (k) other, with prior board approval.

C. Policies and procedures for board review, including but not limited to:

- (1) enrollment and financial;
- (2) cancellation/withdrawal and refund;
- (3) grading method;
- (4) attendance and make up;
- (5) students conduct and discipline;
- (6) dress code;
- (7) hygiene protocol;
- (8) draping procedures;
- (9) evaluation forms;
- (10) curriculum;
- (11) advertising catalog;
- (12) list of text books for all courses; and
- (13) qualifications of instructors not registered with the board as massage therapy instructors.

D. Massage therapy school registration fee in accordance with Subsection C of 16.7.3.8 NMAC.

[12-24-99; 16.7.5.8 NMAC - Rn & A, 16 NMAC 7.5.8, 06-28-01; A, 07-28-05; A, 06-08-06; A, 09-04-09; A, 3/31/15]

16.7.5.9 INSPECTIONS OF SCHOOLS: The massage therapy school will be inspected by a board appointed inspector upon registration and thereafter as needed. Findings of the inspector will be reported to the board as part of the approval process. If an inspection reveals that a school is not in compliance with the board's laws or rules, the school will have thirty (30) days to become compliant; at which time, the school will be re-inspected. If the school fails a second inspection, the board may take action against the school for non-compliance.

A. Provisional registration: A provisional registration will be given to a new school until the school is operating and available for inspection.

B. Term of provisional registration: The provisional registration will be valid no longer than one (1) year from the date of issuance.

C. Inspection criteria: The inspector will observe and report on the following:

- (1) cleanliness of premises;
- (2) New Mexico state school registration and instructor's registrations and their qualifications;
- (3) local business license posted;
- (4) posted complaint policy with board address and phone number available;
- (5) student clinic log;
- (6) student attendance log;
- (7) student files; and
- (8) equipment and teaching aids.

[12-24-99; 16.7.5.9 NMAC - Rn, 16 NMAC 7.5.9, 06-28-01; A, 07-28-05; A, 09-04-09; A, 3/31/15]

16.7.5.10 STANDARDS FOR REGISTERED MASSAGE THERAPY SCHOOLS:

A. Every instructor teaching massage therapy as defined in Section 61-12C-3.F NMSA 1978, of the Massage Therapy Practice Act and Subsection AA of 16.7.1.7 NMAC, must be registered as massage therapy instructors in accordance with 16.7.6 NMAC.

B. Qualifications of all instructors must be documented and maintained on the premises of the registered massage therapy school.

C. Massage therapy school registrations will be renewed yearly in accordance with 16.7.12.10 NMAC.

D. Registered massage therapy schools will comply with 16.7.2 NMAC, Professional Conduct.

E. Registered massage therapy schools may charge the public a fee for the room usage during the time a student is performing massage therapy for clinical practicum training as defined in 16.7.5.7 NMAC.
[12-24-99; 16.7.5.10 NMAC - Rn, 16 NMAC 7.5.10, 06-28-01; A, 07-28-05; A, 3/31/15]

16.7.5.11 CHANGES AFFECTING REGISTRATION: Massage therapy school registrations issued by the board are not transferable. Any change in the business designation of a massage therapy school may have the legal effect of attempting to transfer the registration and of operating without a legal registration.

A . Any of the following changes will require a new registration, and hence, a new application for registration with the board.

(1) Any change to the name of the school from that under which it was originally registered.

(a) The name of the massage therapy school must not tend to mislead the public, and shall not significantly resemble the business name of another registered massage therapy school.

(b) The name of the massage therapy school shall not be announced, used, or in any way be conveyed to the public until the new registration has been issued by the board.

(2) Any change of fifty (50) % or more of ownership of the stock in the corporation or of the shares in a partnership.

(3) Any change in the sole proprietorship.

B. A registered massage therapy school shall notify the board in writing within thirty (30) days of any changes in instructional staff, curriculum, or other changes that may affect the programs offered, provided that the school shall not modify its curriculum to fall below the minimum requirements outlined in this Part, 16.7.5 NMAC.

[16.7.5.11 NMAC - N, 07-28-05; A, 3/31/15]

HISTORY OF 16.7.5 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the State Records Center and Archives under: Rule 92-7, Approval of Massage Therapy Schools/Instructors, 3-26-92;
Rule 92-7, Massage Therapy Schools/Instructors, 9-9-92;
Regulation 7, Massage Therapy Schools/Instructors, 1-5-94

History of Repealed Material:

16 NMAC 7.5, Requirements for Schools and Mentorship Training Programs - Repealed 12-24-99

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 6 REQUIREMENTS FOR INSTRUCTORS

16.7.6.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[12-24-99; 16.7.6.1 NMAC - Rn & A, 16 NMAC 7.6.1, 06-28-01; A, 06-24-05]

16.7.6.2 SCOPE: This part applies to applicants for massage therapy instructor registration and visiting massage therapy instructors, and to registered massage therapy instructors.
[12-24-99; 16.7.6.2 NMAC - Rn, 16 NMAC 7.6.2, 06-28-01]

16.7.6.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-6.C, 61-12C-8.B, and 61-12C-9.C.
[12-24-99; 16.7.6.3 NMAC - Rn, 16 NMAC 7.6.3, 06-28-01]

16.7.6.4 DURATION: Permanent.
[12-24-99; 16.7.6.4 NMAC - Rn, 16 NMAC 7.6.4, 06-28-01]

16.7.6.5 EFFECTIVE DATE: December 24, 1999, unless a later date is cited at the end of a section.
[12-24-99; 16.7.6.5 NMAC - Rn, 16 NMAC 7.6.5, 06-28-01; A, 06-24-05]

16.7.6.6 OBJECTIVE: This part is to establish the application requirements for massage therapy instructors and visiting massage therapy instructors, and to establish the standards for registered massage therapy instructors.
[12-24-99; 16.7.6.6 NMAC - Rn, 16 NMAC 7.6.6, 06-28-01]

16.7.6.7 DEFINITIONS: [RESERVED]
[12-24-99; 16.7.6.7 NMAC - Rn, 16 NMAC 7.6.7, 06-28-01; A, 06-24-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.6.8 MASSAGE THERAPY INSTRUCTOR:

- A. Requirements:** the applicant shall:
- (1) hold a valid massage therapist license in New Mexico; and
 - (2) have practiced massage therapy for a minimum of two (2) years during the three (3) years preceding the application for a massage therapy instructor registration.
- B. Application requirements for registration:** the applicant shall provide the following:
- (1) A completed application for massage therapy instructor registration, which must be legible and printed in black ink or typed.
 - (a) Incomplete application will be returned for completion; and
 - (b) Faxed application and supporting documentation will not be accepted.
 - (2) Documentation verifying two (2) years of professional massage therapy experience during the three (3) years preceding the application must include a minimum of three (3) of the following documents:
 - (a) income tax forms documenting massage therapy practice;
 - (b) verifiable letters from clients confirming receipt of massage therapy services from the applicant;
 - (c) yellow page advertisement(s) that show dates of the advertisement(s);
 - (d) printed flyers or brochure advertisements including dates;
 - (e) proof of rent or lease of practice location or office space;
 - (f) proof of current association membership;
 - (g) proof of current professional insurance;
 - (h) copies of dated receipts for massage therapy practice-related supplies or furnishings that total a minimum of five hundred dollars (\$500);
 - (i) verifiable letters from employers; and

(j) work log consisting of client's names, addresses and/or phone numbers, appointment dates, and time periods worked on clients.

(3) Documentation of completion of fifty (50) contact hours of instructional experience of professional teaching, or workshop instruction.

(4) The massage therapy instructor registration fee in accordance with of Subsection B of 16.7.3.8 NMAC.

C. Documents in foreign language: Any document submitted in a foreign language must be accompanied by an accurate translation in English.

(1) Each translated document must bear the affidavit of the certified translator attesting to it being a true and complete translation of the original document;

(2) The affidavit must also contain the translator's contact information, including address and phone number of the organization that granted the translator certification;

(3) Each translated document must bear a notary seal and signature swearing that the document is that of the applicants; and

(4) Translation of any document relevant to a person's application will be at the expense of the applicant.

[12-24-99; 16.7.6.8 NMAC - Rn & A, 16 NMAC 7.6.8, 06-28-01; A, 06-24-05; A, 3/31/15]

16.7.6.9 SCHOOL-BASED MESSAGE THERAPY INSTRUCTORS:

A. Prerequisite requirements: Every instructor teaching massage therapy as defined in 16.7.6.8 NMAC must be registered by the board as a massage therapy instructor.

B. General provision: Every transcript submitted to the board by an instructor shall be accompanied by a course outline(s) and dates of instruction unless previously submitted as part of a registered massage therapy school curriculum approved by the board. The registered school-based massage therapy instructor shall only provide instruction within the board-approved curriculum of a registered massage therapy school. The applicant or licensee shall notify the board, in writing, within thirty (30) days of any change in their employment, of any additional massage therapy schools where they are instructors.

C. Professional conduct: The registered school-based massage therapy instructor will comply with the board's rule on professional conduct, 16.7.2 NMAC.

[12-24-99; 16.7.6.9 NMAC - Rn, 16 NMAC 7.6.9, 06-28-01; A, 06-24-05; A, 3/31/15]

16.7.6.10 STANDARDS FOR INDEPENDENT MESSAGE THERAPY INSTRUCTORS:

A. Prerequisite requirements: Every registered instructor teaching massage for continuing education as defined in Subsection A of 16.7.11.9 NMAC must be registered as an independent massage therapy instructor.

B. General provision: The registered independent massage therapy instructor may provide instruction at a registered massage therapy school without having to obtain a school-based massage therapy instructor registration, provided that such instruction shall be limited to the school's curriculum approved by the board.

C. Curriculum: The registered independent massage therapy instructor shall submit a curriculum for board review and approval or disapproval, including continuing education courses.

D. Certificates of completion: Every certificate of completion provided by the registered independent massage therapy instructor to the licensee shall include:

(1) the name of the course;

(2) the date(s) of training;

(3) the class hour or contact hour completed;

(4) the name, registration number, and address of the registered independent massage therapy instructor; and

(5) the signature of the registered independent massage therapy instructor.

E. Professional Conduct: The registered independent massage therapy instructors will comply with the board's rule on professional conduct, 16.7.2 NMAC.

[16.7.6.10 NMAC - N, 06-24-05; A, 3/31/15]

16.7.6.11 VISITING MESSAGE THERAPY INSTRUCTOR EXEMPTION:

A. Prerequisite requirements:

- (1) the applicant must hold a massage therapy license, in another state or jurisdiction, or
- (2) the applicant must have massage therapy training equivalent to the requirements outlined in Paragraph 1 of Subsection B or Paragraph 2 of Subsection B of 16.7.4.9 NMAC.

B. General provisions:

- (1) A visiting massage therapy instructor exemption will be granted to an applicant for the purpose of allowing the instructor to teach massage therapy as defined in Section 61-12C-3.E, of the Massage Therapy Practice Act, and Subsection E of 16.7.1.7 NMAC for a limited time without having to obtain a massage therapy license and registration as a massage therapy instructor from the New Mexico board of massage therapy.
- (2) The duration of a visiting massage therapy instructor exemption will not exceed 14 days in a calendar year; thereafter the instructor must comply with the provisions for licensure as a massage therapist and registration as a massage therapy instructor.

C. Application requirements for visiting massage therapy instructor: At the time of application the applicant will provide the following:

- (1) a complete application for a visiting massage therapy instructor exemption;
 - (a) Incomplete application will be returned.
 - (b) Faxed application and/or supporting documentation will not be accepted.
 - (c) All documents submitted in a foreign language must be accompanied by an accurate translation in English. Each translated document must bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original, and sworn to before a notary public. Translation of any document relevant to a person's application will be at the expense of the applicant.
- (2) the name of the New Mexico sponsor who must be a registrant;
- (3) documentation verifying Paragraph 1 of Subsection A or Paragraph 2 of Subsection A of 16.7.6.10 NMAC, above;
- (4) documentation of completion of 50 contact hours of instructional experience of professional teaching, or workshop instruction;
- (5) a course description/syllabus; and
- (6) the visiting massage therapy instructor fee, in accordance with Subsection D of 16.7.3.8 NMAC.

[16.7.6.11 NMAC - Rn, 16.7.6.10 NMAC, 06-24-05]

16.7.6.12 REQUIREMENTS FOR TEACHING ASSISTANTS: Registered massage therapy schools may utilize persons who are not registered massage therapy instructors to assist registered massage therapy instructors in providing instruction to massage therapy students working toward obtaining their massage therapy license. Such persons shall be considered teaching assistants.

- A.** The teaching assistant must be a licensed massage therapist.
- B.** The teaching assistant must be supervised by a registered massage therapy instructor who is physically present in the room.
- C.** Experience as a teaching assistant shall apply to the 50-hour requirement outlined in 16.7.6.8.B (3) NMAC.
- D.** It is the responsibility of the registered massage therapy school to ensure that the teaching assistant complies with the requirements of the board's regulations, 16.7 NMAC, including 16.7.2 NMAC, Professional Conduct.

[16.7.6.12 NMAC - N, 06-24-05]

HISTORY OF 16.7.6 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the State Records Center and Archives under:

- Rule 92-7, Approval of Massage Therapy Schools/Instructors, 3-26-92;
Rule 92-7, Massage Therapy Schools/Instructors, 9-9-92;
Regulation 7, Massage Therapy Schools/Instructors, 1-5-94.

History or Repealed Material:

16 NMAC 7.6, Requirements for Instructors - Repealed 12-24-99

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 7 STUDENTS

16.7.7.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[7-28-96; 16.7.7.1 NMAC - Rn, 16 NMAC 7.7.1, 06-28-01; A, 09-04-09; A, 3/31/15]

16.7.7.2 SCOPE: This part applies to students during massage therapy training.
[7-28-96; 16.7.7.2 NMAC - Rn, 16 NMAC 7.7.2, 06-28-01]

16.7.7.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-6.B.
[7-28-96; 16.7.7.3 NMAC - Rn, 16 NMAC 7.7.3, 06-28-01]

16.7.7.4 DURATION: Permanent.
[7-28-96; 16.7.7.4 NMAC - Rn, 16 NMAC 7.7.4, 06-28-01]

16.7.7.5 EFFECTIVE DATE: July 28, 1996, unless a different date is cited at the end of a section.
[7-28-96; 16.7.7.5 NMAC - Rn, 16 NMAC 7.7.5, 06-28-01; A, 3/31/15]

16.7.7.6 OBJECTIVE: This part is to establish rules for students during massage therapy training.
[7-28-96; 16.7.7.6 NMAC - Rn, 16 NMAC 7.7.6, 06-28-01]

16.7.7.7 DEFINITIONS: [RESERVED]
[7-28-96; 5-11-97; 16.7.7.7 NMAC - Rn, 16 NMAC 7.7.7, 06-28-01; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.7.8 GENERAL PROVISIONS:

A. Students not yet licensed may not charge for massage therapy services.
(1) Students may only accept voluntary unsolicited tips, gratuities and donations while practicing massage therapy under school endorsed functions, under the supervision of a registered massage therapy instructor.

(2) Students may not suggest either verbally or in writing, amounts of tips, gratuities or donations.

B Students may *not* provide Massage Therapy services without direct supervision of a Registered Massage Therapy Instructor.

C. Students may distribute identification cards which must include the school's name, address, and phone number; the student's name, and the word "student".

D. Student complaints:

(1) Complaints concerning the registered massage therapy school, instructor(s), or other student(s) should first be addressed through the registered massage therapy school's complaint policy.

(2) If the school does not resolve the complaint adequately, or in extreme circumstances, a complaint may be brought before the board in accordance with 16.7.14.8 NMAC.

E. Students will comply with 16.7.2 NMAC, Professional Conduct.
[7-28-96; 16.7.7.8 NMAC - Rn, 16 NMAC 7.7.8, 06-28-01; A, 09-04-09; A, 3/31/15]

HISTORY OF 16.7.7 NMAC: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 8 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.7.8.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[16.7.8.1 NMAC - N, 3/31/15]

16.7.8.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.
[16.7.8.2 NMAC - N, 3/31/15]

16.7.8.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to Section 61-1-34 of the Uniform Licensing Act, NMSA 1978
[16.7.8.3 NMAC - N, 3/31/15]

16.7.8.4 DURATION: Permanent.
[16.7.8.4 NMAC - N, 3/31/15]

16.7.8.5 EFFECTIVE DATE: March 31, 2015.
[16.7.8.5 NMAC - N, 3/31/15]

16.7.8.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, spouses and veterans seeking licensure to practice under Chapter 61, Article 12C NMSA1978.
[16.7.8.6 NMAC - N, 3/31/15]

16.7.8.7 DEFINITIONS:

A. “Military service member” means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the National Guard.

B. “Recent Veteran” means a person who has received an honorable discharge or separation from military service within the two (2) years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[16.7.8.7 NMAC - N, 3/31/15]

16.7.8.8 APPLICATION REQUIREMENTS:

A. Applications for registration shall be completed on a form provided by the board:

B. A completed application shall include:

(1) The required fee as outlined in 16.7.3 NMAC;

(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license applied for pursuant to Chapter 61, Article 12C NMSA 1978; and

(3) Proof of honorable discharge (DD214), military ID card, or accepted proof of military spouse status.

[16.7.8.8 NMAC - N, 3/31/15]

16.7.8.9 RENEWAL REQUIREMENTS: A license issued pursuant to this section shall not be renewed unless the license holder submits the following:

A. A completed renewal application accompanied by the required documents listed under 16.7.12 NMAC;

B. Payment of required renewal fees under 16.7.3 NMAC; and

C. Documentation required for initial licensure under 16.7.4 NMAC.

[16.7.8.9 NMAC - N, 3/31/15]

HISTORY OF 16.7.8 NMAC:

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 10 EXAMINATIONS

16.7.10.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[7-28-96; 16.7.10.1 NMAC - Rn & A, 16 NMAC 7.10.1, 06-28-01; A, 09-30-05]

16.7.10.2 SCOPE: This part applies to massage therapy applicants for licensure.
[7-28-96; 16.7.10.2 NMAC - Rn, 16 NMAC 7.10.2, 06-28-01]

16.7.10.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, NMSA 1978, Section 61-12C-13 and 61-1 2C-16.
[7-28-96; 16.7.10.3 NMAC - Rn, 16 NMAC 7.10.3, 06-28-01]

16.7.10.4 DURATION: Permanent.
[7-28-96; 16.7.10.4 NMAC - Rn, 16 NMAC 7.10.4, 06-28-01]

16.7.10.5 EFFECTIVE DATE: July 28, 1996, unless a later date is cited at the end of a section.
[7-28-96; 16.7.10.5 NMAC - Rn, 16 NMAC 7.10.5, 06-28-01; A, 09-30-05]

16.7.10.6 OBJECTIVE: This part is to establish the examination requirements for massage therapy licensure.
[7-28-96; 16.7.10.6 NMAC - Rn, 16 NMAC 7.10.6, 06-28-01]

16.7.10.7 DEFINITIONS: [RESERVED]
[4-25-92 ... 7-28-96; 16.7.10.7 NMAC - Rn, 16 NMAC 7.10.7, 06-28-01; A, 09-30-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.10.8 JURISPRUDENCE EXAMINATION:

- A.** All massage therapy licensure applicants must successfully pass the board's open-book jurisprudence examination.
- (1)** The applicant will receive the jurisprudence examination with instructions from the board office after the board office receives both the application and application fee.
 - (2)** To complete the jurisprudence examination, the applicant will use the statute and regulations received either from the board or which the applicant downloaded from the board's website at www.rld.state.nm.us.
 - (3)** The applicant must pass the jurisprudence examination with a minimum score of seventy percent (70%).
 - (4)** The applicant must return the completed jurisprudence examination to the board office as required.
- B.** Applicants may retake the examination as many times as necessary to achieve a passing grade.
- C.** The jurisprudence examination shall not be reproduced or shared in any manner.
[4-25-92 ... 7-28-96; 12-24-99; 16.7.10.8 NMAC - Rn, 16 NMAC 7.10.8, 06-28-01; A, 09-30-05; A, 3/31/15]

16.7.10.9 LICENSING EXAMINATION:

- A.** Applicants for massage therapy licensure must successfully pass either the national certification examination for therapeutic massage and bodywork (NCETMB), the national certification examination for therapeutic massage (NCETM) administered by the national certification board for therapeutic massage and bodywork (NCBTMB), or the massage and bodywork licensing examination (MBLEx) administered by the federation of state massage therapy boards.
- B.** The candidate must apply to take the NCETMB, NCETM or the MBLEx examination and meet the examining agency's requirements.
- C.** The applicant must ensure that the examining agency sends the official examination results directly to the board office.
[10-9-92 ... 7-28-96; 16.7.10.9 NMAC - Rn, 16 NMAC 7.10.9, 06-28-01; A, 09-30-05; A, 09-04-09]

16.7.10.10 PROCEDURES TO RETAKE A LICENSING EXAMINATION: Applicants who fail to pass the NCETMB, NCETM or the MBLEx examination must apply directly to the examining agency to retake the examination.

[4-25-92 ... 7-28-96; 16.7.10.10 NMAC - Rn & A, 16 NMAC 7.10.10, 06-28-01; A, 09-30-05; A, 09-04-09]

HISTORY OF 16.7.10 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 92-8, Examination Procedures, 3-26-92

Rule 92-8, Examination Procedures, 9-9-92

Rule 92-8, Examination Procedures, 11-19-92

Regulation 8, Examination Procedures, 1-5-94

History of Repealed Material: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 11 CONTINUING EDUCATION

16.7.11.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[5-30-96; 16.7.11.1 NMAC - Rn & A, 16 NMAC 7.11.1, 06-28-01; A, 06-24-05]

16.7.11.2 SCOPE: This part applies to licensed massage therapists.
[5-30-96; 16.7.11.2 NMAC - Rn, 16 NMAC 7.11.2, 06-28-01]

16.7.11.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-17.
[5-30-96; 16.7.11.3 NMAC - Rn, 16 NMAC 7.11.3, 06-28-01]

16.7.11.4 DURATION: Permanent.
[5-30-96; 16.7.11.4 NMAC - Rn, 16 NMAC 7.11.4, 06-28-01]

16.7.11.5 EFFECTIVE DATE: May 30, 1996, unless a later date is cited at the end of a section.
[5-30-96; 16.7.11.5 NMAC - Rn, 16 NMAC 7.11.5, 06-28-01; A, 06-24-05]

16.7.11.6 OBJECTIVE: This part is to establish the continuing education requirements and procedures, to ensure that licensed massage therapists and massage therapy instructors provide the highest quality professional service. Therefore, licensees should engage in education activities that foster this objective.
[5-30-96; 16.7.11.6 NMAC - Rn, 16 NMAC 7.11.6, 06-28-01]

16.7.11.7 DEFINITIONS: [RESERVED]
[5-30-96; 16.7.11.7 NMAC - Rn, 16 NMAC 7.11.7, 06-28-01; A, 06-24-05; A, 09-30-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.11.8 GENERAL PROVISIONS: The board does not maintain a list of continuing education providers. The licensee or registrant must determine where to obtain the required continuing education.

A. Massage therapy licensees: As a condition for license renewal, each massage therapist licensed pursuant to the Massage Therapy Practice Act will be required to complete sixteen (16) hours of continuing education of which up to eight (8) hours can be taken on-line. All technique courses must be hands on and shall *not* be taken on-line as cited in Subsection C of 16.7.1.9 NMAC and Paragraph (2) of Subsection A of 16.7.11.10 NMAC.

(1) Continuing education must be completed within the twenty-four (24) months immediately preceding the renewal date of October 31.

(2) Excess hours cannot be carried over to future renewals.

(3) Continuing education taken prior to the twenty-four (24) month period will not be accepted.

(4) Each licensee will maintain documentation of all completed continuing education, including contact information for the continuing education providers.

B. Instructor registrants: Effective starting with the October 31, 2017 renewal cycle. In addition to the requirements for renewal of their massage therapy license, each registered massage therapy instructor will be required to complete sixteen (16) hours of continuing education, eight (8) of which must consist of the knowledge, skills and abilities of teaching adult learners. Eight (8) hours may be taken on-line. All technique courses must be hands on and shall *not* be taken on-line as cited in Subsection C of 16.7.1.9 NMAC and Paragraph (2) of Subsection A of 16.7.11.10 NMAC.

(1) Continuing education must be completed within the twenty-four (24) months immediately preceding the renewal date of October 31.

(2) Excess hours cannot be carried over to future renewals.

(3) Continuing education taken prior to the twenty-four (24) month period will not be accepted.

(4) Each registrant will maintain documentation of all continuing education completed, including contact information for the continuing education providers.

C. Audit process: The board will audit continuing education to verify compliance.

(1) A minimum of ten percent (10%) of renewing licensees and registrants will be randomly selected for audit.

(2) Audit requests may be included in the renewal notice.

(3) Licensees and registrants not selected for audit are only required to list the continuing education they completed on their renewal applications.

(4) The board may audit any licensee or registrant's continuing education records at any time before the next scheduled license/registration renewal.

(5) Audited licensees or registrants who fail to provide the requested continuing education documentation are not eligible for license/registration renewal.

[10-3-93...5-30-96; 16.7.11.8 NMAC - Rn & A, 16 NMAC 7.11.8, 06-28-01; A, 06-24-05, A, 09-30-05; A, 3/31/2015]

16.7.11.9 CONTINUING EDUCATION PROGRAMS FOR MASSAGE THERAPISTS:

A. The board will accept the following types of continuing education which contribute directly to the licensee's massage therapy practice:

(1) courses, seminars, workshops and classes in areas related to the practice of massage therapy such as: massage, bodywork, allied health care, psychology, anatomy, physiology, business, insurance, movement therapy, stress management, yoga, CPR, and first aid;

(2) courses of study offered by registered massage therapy schools; massage therapy instructors; massage, bodywork, or allied healthcare professional organizations, NCBTMB continuing education providers, and accredited colleges and universities; or

(3) publishing an article relating to massage therapy in a local, regional, or national publication, no more than twelve (12) hours of continuing education credit shall be granted in any renewal period. The number of continuing education hours shall be determined by the massage therapy board; in the interim the board's chair or authorized representative of the board may grant the continuing education hours and then be ratified at the next regular meeting of the massage therapy board.

B. Ethics requirement: All massage therapists shall be required to complete a minimum of four (4) hours of ethics training as part of the sixteen (16)-hour requirement for each renewal period. Ethics courses must be taken from individuals or institutions listed in 16.7.11.9 NMAC.

C. Technique courses must be hands on and shall not be taken on-line.

[10-3-93...5-30-96; 16.7.11.9 NMAC - Rn & A, 16 NMAC 7.11.9, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

16.7.11.10 CONTINUING EDUCATION PROGRAMS FOR MASSAGE THERAPY INSTRUCTORS:

A. The board will accept the following types of continuing education which contribute directly to the registrants' massage therapy practice and instructional knowledge, skills and abilities.

(1). courses, seminars, workshops and classes in areas related to andragogy such as: class presentation techniques, class materials preparations, communications skills, research, cultural diversity, and counseling;

(2). courses of study offered by registered massage therapy schools, NCBTMB providers, registered massage therapy instructors, massage, bodywork, or allied health care professional organizations; accredited colleges and universities. All technique courses must be hands on and shall not be taken on-line; or

(3). publishing an article relating to massage therapy in a local, regional, or national publication; no more than twelve (12) hours of continuing education credit shall be granted in any renewal period. The number of continuing education hours shall be determined by the massage therapy board; in the interim the board's chair or authorized representative of the board may grant the continuing education hours and then be ratified at the next regular meeting of the massage therapy board.

B. A minimum of eight (8) hours of continuing education for massage therapy instructors must consist of the knowledge, skills and abilities of teaching adult learners.

[16.7.11.10 NMAC - N, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

HISTORY OR 16.7.11 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 10, Continuing Education, 9-3-93

History of Repealed Material: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 12 LICENSE/REGISTRATION RENEWAL

16.7.12.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[16.7.12.1 NMAC - Rp, 16.7.12.1 NMAC, 06-24-05]

16.7.12.2 SCOPE: This part applies to licensees and registrants.
[16.7.12.2 NMAC - Rp, 16.7.12.2 NMAC, 06-24-05]

16.7.12.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-17 and 61-12C-18.
[16.7.12.3 NMAC - Rp, 16.7.12.3 NMAC, 06-24-05]

16.7.12.4 DURATION: Permanent.
[16.7.12.4 NMAC - Rp, 16.7.12.4 NMAC, 06-24-05]

16.7.12.5 EFFECTIVE DATE: June 24, 2005, unless a later date is cited at the end of a section.
[16.7.12.5 NMAC - Rp, 16.7.12.5 NMAC, 06-24-05]

16.7.12.6 OBJECTIVE: This part is to establish the requirements for renewal of massage therapy licenses, massage therapy instructor registrations, and massage therapy school registrations; the inactive status and reactivation of inactive massage therapy licenses and massage therapy instructor registrations.
[16.7.12.6 NMAC - Rp, 16.7.12.6 NMAC, 06-24-05]

16.7.12.7 DEFINITIONS: [RESERVED]
[16.7.12.7 NMAC - N, 06-24-05; A, 09-30-05; A, 09-04-09]
[Refer to 16.7.1.7 NMAC]

16.7.12.8 GENERAL PROVISIONS FOR ALL LICENSEES AND REGISTRANTS:

A. Administrative provisions relative to the renewal process:

(1) Licenses and registrations expire on an annual or biennial basis on October 31. The specific annual or biennial schedule for each license or registration type is further detailed in 16.7.4.20 NMAC, with the understanding that an instructor's registration renewal date must coincide with his/her massage therapy license renewal date (see Paragraph (1) of Subsection A of 16.7.6.8 NMAC).

(2) A current license or registration renewal form shall be mailed to the last known address on file with the board.

(3) Each licensee and registrant must inform the board in writing, within thirty (30) days of any change in contact information, such as address or telephone number.

(4) Failure to receive the renewal notice shall not relieve the licensee or registrant from the responsibility of renewing the license or registration by the renewal date.

(5) The licensee or registrant shall complete the renewal application form in the manner stated on the form. The form must be submitted with the requested documentation and required fee(s) as set forth in 16.7.3 NMAC.

(6) Incomplete renewal applications will be returned to the licensee or registrant for completion, which might result in the assessment of late penalty fees.

B. Grace period provisions:

(1) Renewal applications for licenses or registrations postmarked or hand-delivered after October 31 must also be accompanied by the late renewal penalty fee established in 16.7.3 NMAC. If October 31 falls on a weekend, a renewal postmarked or hand-delivered on the next business day will be considered timely.

(2) After the renewal date of October 31, there is a sixty (60)-day grace period ending December 30 of the same year during which the license or registration may still be renewed, and during which the licensee or registrant may still practice or provide the services authorized by the license or registration.

(3) Massage therapists and massage therapy instructors who have not renewed their licenses or registrations with a postmark date of December 30, or the next business day if December 30 falls on a weekend, will automatically be placed on inactive status as of December 31 of that year.

(4) Massage therapy schools that have not renewed their registrations with a postmark date of December 30, or the next business day if December 30 falls on a weekend, will automatically expire and become null and void immediately.

[16.7.12.8 NMAC - Rp, 16.7.12.8 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

16.7.12.9 GENERAL PROVISIONS ONLY FOR MASSAGE THERAPISTS AND INSTRUCTORS:

A. Inactive status issues for massage therapists and massage therapy instructors:

(1) Massage therapists and massage therapy instructors whose licenses or registrations have been placed on inactive status may not provide the services authorized by the license or registration.

(2) Massage therapists and massage therapy instructors who practice with an inactive license or registration are subject to disciplinary action by the board.

(3) The inactive status period shall last two (2) years, beginning on the December 30 that the license or registration is placed on inactive status.

(4) The licensee or registrant must monitor the period of inactive status.

(5) The board will *not* send any notices of the upcoming expiration of inactive status to the licensees or registrants.

B. Reactivation from inactive status - therapists and instructors only:

(1) Massage therapy licenses and massage therapy instructor registrations will expire if not reactivated within two (2) years from the date the license or registration was placed on inactive status.

(2) The required reactivation form must be requested from the board office a minimum of one (1) month prior to the expiration of the inactive status period.

(3) The licensee or registrant shall return the reactivation form with the required proof of completion of continuing education as set forth in 16.7.11 NMAC, along with the reactivation fee and late renewal penalty fee as set forth in 16.7.3.NMAC.

(4) The reactivation application and required enclosures must be postmarked or hand-delivered to the board office no later than two years from the December 30 of the year in which the license or registration was placed on inactive status. Failure to do so will cause the license or registration to expire, lapse, and become null and void.

(5) Reactivation applications received with a postmark date or hand-delivered after December 30 will be returned to the expired licensee or registrant because the license may no longer be reactivated.

[16.7.12.9 NMAC - Rp, 16.7.12.8, 9, and 10 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

16.7.12.10 MASSAGE THERAPISTS:

A. Massage therapists will renew their licenses on or before the renewal date of October 31 of the biennial renewal cycle first established when their initial licenses were issued.

B. Some massage therapists will renew on the odd-numbered year, while others will renew on the even-numbered year.

C. The general provisions in 16.7.12.8, 16.7.12.9, and 16.7.12.10 NMAC explain the policy and procedure for massage therapist license renewal.

D. Massage therapists shall meet the continuing education requirements and shall maintain documentation of continuing education as set forth in 16.7.11 NMAC.

[16.7.12.10 NMAC - Rp, 16.7.12.10 NMAC, 06-24-05, A, 09-30-05; A, 3/31/15]

16.7.12.11 MASSAGE THERAPY INSTRUCTORS:

A. Prerequisite requirements: The registrant shall hold a current active New Mexico massage therapy license.

B. Instructor registration renewal: The general provisions in 16.7.12.8, 16.7.12.9, and 16.7.12.10 NMAC explain the policy and procedure for massage therapy instructor registration renewal.

(1) Each instructor's registration comes up for renewal at the same time the registrant's massage therapy license comes up for renewal.

(2) Registrants will renew their registration on or before October 31 of the registrant's biennial renewal year. If October 31 falls on a weekend, a renewal postmarked or hand-delivered on the next business day will be considered timely.

(3) Registrants shall meet the continuing education requirements and must maintain documentation of continuing education as set forth in 16.7.11 NMAC.

(4) Independent instructor registrants will be responsible for submitting their massage therapy training curriculum with their renewal.

(5) School based instructor registrants who teach at a registered massage therapy school are not required to submit a curriculum with their renewal.

[16.7.12.11 NMAC - Rp, 16.7.12.9 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

16.7.12.12 MESSAGE THERAPY SCHOOLS:

A. Massage therapy school registrations shall be renewed annually by October 31 or by the next business day if the October 31 falls on a weekend.

B. The general provisions in 16.7.12.8 NMAC explain the general policy and procedure for massage therapy school renewal.

C. Registrants will submit a curriculum of the massage therapy training program annually to the board to document compliance with the course requirements set forth in 16.7.5 NMAC.

D. After the grace period, which ends on December 30, an owner/operator of a massage therapy school who has not renewed the school's registration shall no longer maintain, manage or operate the "massage therapy school" as defined in 16.7.12.7 NMAC or in Section 61-12C-3.F of the Massage Therapy Practice Act, or offer education, instruction, or training in "massage therapy" as defined in Section 61-12C-3.E of the Massage Therapy Practice Act.

E. The registration shall expire, lapse and become null and void if not timely renewed.
[16.7.12.12 NMAC - Rp, 16.7.12.10 NMAC, 06-24-05; A, 09-30-05]

16.7.12.13 APPROVED RENEWAL APPLICATION: Upon approval of the licensee's or registrant's renewal application, the board will issue a renewal license or registration to the licensee or registrant.

[16.7.12.13 NMAC - N, 06-24-05]

16.7.12.14 RENEWAL LICENSE OR REGISTRATION DISPLAY: The renewal license or registration shall be displayed by the licensee or registrant in a conspicuous place in the licensee's or registrant's principal practice location or place of business.

[16.7.12.14 NMAC - N, 06-24-05]

16.7.12.15 EXPIRATION OF LICENSE OR REGISTRATION:

A. If a massage therapist or instructor does not reactivate his/her license or registration by the end of the inactive status period, the license or registration will automatically expire without notice from the board and become null and void.

B. If a massage therapy school has not renewed its registration by the end of the sixty-day (60) grace period, the registration will automatically expire without notice from the board and will become null and void.

C. Expired licenses and registrations cannot be reactivated.

D. Licensees and registrants formerly licensed or registered by the board whose registrations have expired must make application to the board and comply with the same requirements as any previously unlicensed or unregistered applicant.

E. A former licensee or registrant with an expired license or registration may not provide or offer to provide massage therapy services, instruction, education or training in massage therapy as defined in Section 61-12C-3.E of the Massage Therapy Practice Act or in Part 1 and Part 4 of the board's rules and regulations. Practicing or providing the services formerly authorized by the expired license or registration is a violation of the law and is subject to disciplinary action by the board.

[16.7.12.15 NMAC - N, 06-24-05]

16.7.12.16 UNLICENSED PRACTICE PROHIBITED:

A. Massage therapists, massage therapy instructors, and massage therapy schools may not render or attempt to render massage therapy services, instruction as a massage therapy instructor, or training and instruction as

a massage therapy school without the required current and valid license or registration issued by the board as provided in Section 61-12C-27 NMSA 1978 of the Massage Therapy Practice Act.

B. In accordance with the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pam), any person, company, firm, or entity who is not licensed or registered by the board is subject to disciplinary actions and proceedings by the board if it is determined that they, have been offering or providing massage therapy, offering or providing massage therapy instruction; or offering or providing educational training in massage therapy in New Mexico without a valid New Mexico license or registration.

C. The board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) against any person, company, firm, or entity that violates the Massage Therapy Practice Act by practicing without a valid New Mexico license.

D. In addition, the board may assess the person, company, firm, or entity engaging in the unlicensed practice of massage therapy, massages therapy instruction, or massage therapy education, the administrative costs, including investigative costs and the costs of conducting a hearing.

E. Reports of unlicensed practice may be reported to the board for investigation by phone, fax, mail, or e-mail. An approved complaint form is available from the board office or downloadable from the board's website at www.rld.state.nm.us.

[16.7.12.16 NMAC - N, 06-24-05; A, 3/31/15]

HISTORY OF 16.7.12 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the State Records Center and Archives under:

Rule 11, License/Massage Therapy School Renewals, 9-3-93.

History of Repealed Material:

16 NMAC 7.12, License/Registration Renewal; Registration - Repealed 12-24-99

16.7.12 NMAC, License/Registration Renewal - Repealed 06-24-05

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 14 COMPLAINTS

16.7.14.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board. [7-28-96; 6-1-99; 16.7.14.1 NMAC - Rn, 16 NMAC 7.14.1, 06-28-01; A, 09-04-09; A, 3/31/15]

16.7.14.2 SCOPE: This part applies to licensees, registrants, massage therapist, registered massage therapy instructors, registered massage therapy schools and applicants for licensure or registration. [7-28-96; 16.7.14.2 NMAC - Rn, 16 NMAC 7.14.2, 06-28-01; A, 3/31/15]

16.7.14.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Section 61-12C-8.H, 61-12C-8-K, and 61-12C-24. [7-28-96; 16.7.14.3 NMAC - Rn, 16 NMAC 7.14.3, 06-28-01]

16.7.14.4 DURATION: Permanent. [7-28-96; 16.7.14.4 NMAC - Rn, 16 NMAC 7.14.4, 06-28-01]

16.7.14.5 EFFECTIVE DATE: July 28, 1996, unless a different date is cited at the end of a section. [7-28-96; 16.7.14.5 NMAC - Rn, 16 NMAC 7.14.5, 06-28-01; A, 3/31/15]

16.7.14.6 OBJECTIVE: This part is to establish the procedures for processing complaints and taking disciplinary action against licensed massage therapists, registered massage therapy schools, registered massage therapy instructors, and applicants for licensure or registration, for violation of the Massage Therapy Practice Act or any provisions of 16.7 NMAC. [7-28-96; 16.7.14.6 NMAC - Rn, 16 NMAC 7.14.6, 06-28-01]

16.7.14.7 DEFINITIONS: [RESERVED] [7-28-96; 16.7.14.7 NMAC - Rn, 16 NMAC 7.14.7, 06-28-01; A, 09-04-09] [Refer to 16.7.1.7 NMAC]

16.7.14.8 GENERAL PROVISIONS:
A. A complaint may be initiated in writing by any person.
B. Complaints shall be legible, either printed in black ink or typed.
C. Complaints shall contain factual allegations, constituting the alleged violations of any provisions of the Massage Therapy Practice Act and 16.7 NMAC. [7-28-96; 16.7.14.8 NMAC - Rn, 16 NMAC 7.14.8, 06-28-01; A, 3/31/15]

16.7.14.9 PROCEDURES FOR RECEIPT OF A COMPLAINT:
A. The board's designee will maintain a written log of all complaints received which records at a minimum, the date the complaint was received, and name, addresses of the complainant(s) and respondent(s).
B. Upon receipt of a complaint the board's designee will:
(1) log in the date the complaint was received;
(2) determine whether the respondent is licensed, registered or an applicant for licensure or registration with the board;
(3) assign a complaint number and create an individual file; complaint numbering will begin with the last two digits of the year in which the complaint is filed, followed by the month, and will then continue sequentially (e.g., 96-01-001 first = complaint filed in January 1996);
(4) send the complainant written acknowledgment of receipt of the complaint;
(5) immediately forward the complaint to the complaint committee; the complaint committee chair will be responsible for convening the complaint committee to review the complaint(s). [7-28-96; 6-1-99; 16.7.14.9 NMAC - Rn, 16 NMAC 7.14.9, 06-28-01; A, 09-04-09]

16.7.14.10 COMPLAINT COMMITTEE:

A. The board chair will appoint a complaint committee consisting of at least one (1) professional member of the board, who will chair the committee. The board chair may also appoint to the complaint committee the board administrator and/or a complaint manager.

B. The complaint committee will handle complaints in a confidential manner as required by law.

C. The complaint committee will review all complaints received by the board and make recommendations for disposition of the complaint to the full board in executive session.

D. No complaint committee meeting will be held without the presence of the professional board member.

E. A complaint committee member who believes they are is not capable of judging a particular complaint fairly on the basis of its own circumstances will not participate; another professional member will be appointed by the chair to serve as committee chair for the complaint being considered.

F. For any complaint which the complaint committee reasonably anticipates may be referred to the board for consideration of the issuance of a notice of contemplated action, the respondent will be provided a copy of the complaint and will be allowed a reasonable time in which to respond to the allegations in the complaint.

G. The complaint committee will not be required to provide the respondent with a copy of the complaint, or with notice of the filing of a complaint or any related investigation, prior to the issuance of a notice of contemplated action if the committee determines that disclosure may impair, impede or compromise the efficacy or integrity of the investigation.

H. If the complaint committee determines that further information is needed, it may issue investigative subpoenas pursuant to the Uniform Licensing Act; it may employ an investigator, experts, or other persons whose services are determined to be necessary to assist in the processing and investigation of the complaint. The complaint committee will have independent authority to employ such persons without prior approval of the board. The board administrator will determine budgetary availability and will contract for investigative services.

I. Upon completion of its review or investigation of a complaint, the complaint committee will present a summary of the case to the board for the purpose of enabling the board to decide whether to proceed with the case or to dismiss the case. The summary will be identified by complaint number without identifying the complainant(s) or respondent(s) by name.

[7-28-96; 5-11-97; 6-1-99; 16.7.14.10 NMAC - Rn, 16 NMAC 7.14.10, 06-28-01; A, 3/31/15]

16.7.14.11 BOARD ACTION:

A. If the board determines that it lacks jurisdiction or that there is not sufficient evidence or cause to issue a notice of contemplated action, the case will be closed.

B. The board's designee will send a letter of the board's decision to both the complainant and respondent. The letter will state the board's actions and the reasons for its decision.

C. If the board determines that there is sufficient evidence or cause to issue a notice of contemplated action, the board may vote to issue a notice of contemplated action.

D. The board's designee will forward a complete copy of the complaint committee's report, including exhibits to the attorney general's office for assignment of an administrative prosecutor.

E. The board may take any other action with regard to a complaint which is within its authority and which is within the law, including referring the complaint to the attorney general for injunctive proceedings, or referring the complaint to district attorneys for prosecution of persons alleged to be practicing massage therapy without a proper license or registration.

F. Any board member who believes that they are not capable of judging a particular complaint fairly on the basis of its own circumstances will not participate in the decision to issue a notice of contemplated action and will not participate in the hearing, deliberation, or decision of the board.

G. Members of the complaint committee will not participate in the decision whether to issue a notice of contemplated action, other than by making a recommendation to the board whether to issue a notice of contemplated action, and will not participate in the hearing, deliberation, or decision of the board.

[7-28-96; 6-1-99; 16.7.14.11 NMAC - Rn, 16 NMAC 7.14.11, 06-28-01; A, 3/31/15]

16.7.14.12 SETTLEMENT AGREEMENT:

A. The board may enter into a settlement agreement with the licensee or registrant as a means of resolving the complaint.

B. Any proposed settlement agreement must be approved by the board, and must also be approved by the respondent, upon a knowing and intentional waiver by the respondent of their right to a hearing as provided by the Uniform Licensing Act.

C. The settlement agreement must be signed by either the licensee's attorney or the licensee must acknowledge that he or she has been advised to seek the advice of an attorney.

[7-28-96; 6-1-99; 16.7.14.12 NMAC - Rn, 16 NMAC 7.14.12, 06-28-01; A, 3/31/15]

16.7.14.13 NOTICE OF CONTEMPLATED ACTION:

A. All disciplinary proceedings will be conducted in accordance with the Uniform Licensing Act.

B. The board chair, or his/her designee, will serve as hearing officer for disciplinary proceedings for the purpose of administering pre-hearing procedural matters. The hearing officer will be fully authorized to make all necessary procedural decisions on behalf of the board, including, but not limited to, matters related to discovery, continuances, time extensions, amendments, pre-hearing conferences, and proposed findings of fact and conclusions of law.

C. The hearing officer may make such orders as he or she determines may be necessary to implement the authority conferred by Subsection B of 16.7.14.13 NMAC above, including but not limited to discovery schedules, pleading schedules, and briefing schedules.

D. No party will engage in ex-parte communications with the hearing officer or any member of the board in any matter in which a notice of contemplated action has been issued.

E. Licensees and registrants who have been found culpable and sanctioned by the board will be responsible for the payments of all costs of the disciplinary proceedings.

F. Any license or registration, including a wall certificate, issued by the board and subsequently suspended or revoked will be promptly returned to the board office, but no later than 30 days of receipt by the licensee or registrant of the board's order suspending or revoking the license.

[7-28-96; 5-11-97; 6-1-99; 16.7.14.13 NMAC - Rn, 16 NMAC 7.14.13, 06-28-01]

HISTORY OF 16.7.14 NMAC: [Reserved]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MASSAGE THERAPISTS
PART 16 PARENTAL RESPONSIBILITY ACT COMPLIANCE

16.7.16.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board
[16.7.16.1 NMAC - N, 06-28-01; A, 3/31/15]

16.7.16.2 SCOPE: This part applies to all licensees/registrants and applicants for licensure/registration under the New Mexico Massage Therapy Practice Act.
[16.7.16.2 NMAC - N, 06-28-01]

16.7.16.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Parental Responsibility Act Section 40-5A-1 et seq., NMSA 1978 (Ch. 25, Laws of 1995), the New Mexico Massage Therapy Practice Act, Section 61-12C-1 et seq., NMSA 1978 and the Uniform Licensing Act, Section 61-1-1 et seq., NMSA 1978.
[16.7.16.3 NMAC - N, 06-28-01]

16.7.16.4 DURATION: Permanent.
[16.7.16.4 NMAC - N, 06-28-01]

16.7.16.5 EFFECTIVE DATE: June 28, 2001, unless a different date is cited at the end of a section.
[16.7.16.5 NMAC - N, 06-28-01]

16.7.16.6 OBJECTIVE: This part is established to facilitate the operation of the Parental Responsibility Act as it pertains to licensees/registrants and applicants for licensure/registration, by delegating authority to issue notices of contemplated action and to refer such cases for administrative prosecution to the board administrator.
[16.7.16.6 NMAC - N, 06-28-01]

16.7.16.7 DEFINITIONS: [Reserved]
[16.7.16.7 NMAC - N, 06-28-01]

16.7.16.8 DELEGATION OF AUTHORITY: The authority of the massage therapy board to issue a notice of contemplated action against any licensee/registrant or applicant for licensure/registration whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978, 40-5A-1, et seq., and as provided further in Part 1, 16 NMAC 1, of the New Mexico Administrative Code, which is incorporated herein by reference, and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the New Mexico massage therapy board. Part 16, 16 NMAC 7 shall not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution.
[16.7.16.8 NMAC - N, 06-28-01]

HISTORY OF 16.7.16 NMAC: [Reserved]

State of New Mexico
Massage Therapy Board



STATUTE
Article 12C
MESSAGE THERAPY PRACTICE

ARTICLE 12C
State of New Mexico
MASSAGE THERAPY PRACTICE

Chapter 61, Article 12C NMSA 1978 may be cited as the “Massage Therapy Practice Act”.

History: Laws 1991, ch. 147, § 1; 1993, ch. 173, § 1; 1999, ch. 240, § 1.

61-12C-1. Short title. (Repealed effective July 1, 2022.)

61-12C-2. Legislative purpose. (Repealed effective July 1, 2022.)

In the interest of public health, safety and welfare and to protect the public from unlawful, improper and incompetent practice of massage therapy, it is necessary to regulate that practice.

History: Laws 1991, ch. 147, § 2; 1999, ch. 240, § 2.

61-12C-3. Definitions. (Repealed effective July 1, 2022.)

As used in the Massage Therapy Practice Act:

A. "board" means the massage therapy board;

B. "department" means the regulation and licensing department;

C. "jurisprudence" means the statutes and rules of the state pertaining to the practice of massage therapy;

D. "massage therapist" means a person licensed to practice massage therapy pursuant to the Massage Therapy Practice Act;

E. "massage therapy" means the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law; and

F. "massage therapy school" means a facility providing an educational program in massage therapy that is registered with the board.

History: Laws 1991, ch. 147, § 3; 1993, ch. 173, § 2; 1999, ch. 240, § 3.

61-12C-4. Repealed.

61-12C-5. License or registration required. (Repealed effective July 1, 2022.)

A. A person shall not provide or offer to provide massage therapy for compensation unless that person is a massage therapist.

B. A person shall not use the title of or represent himself to be a massage therapist or use any other title, abbreviations, letters, figures, signs or devices that indicate the person is a massage therapist unless he is a massage therapist.

C. A person shall not provide or offer to provide massage therapy training as a massage therapy instructor unless he is registered as a massage therapy instructor pursuant to Section 61-12C-9 NMSA 1978.

D. A person shall not maintain, manage or operate a massage therapy school offering education, instruction or training in massage therapy unless the school is a registered massage therapy school.

History: Laws 1991, ch. 147, § 5; 1993, ch. 173, § 4; 1999, ch. 240, § 4.

61-12C-5.1. Exemptions. (Repealed effective July 1, 2022.)

Nothing in the Massage Therapy Practice Act shall be construed to prevent:

A. qualified members of other recognized professions that are licensed or regulated under New Mexico law from rendering services within the scope of their licenses or regulations; provided they do not represent themselves as massage therapists;

- B. students from rendering massage therapy services within the course of study of an approved massage therapy school and under the supervision of a licensed massage therapy instructor;
- C. visiting massage therapy instructors from another state or territory of the United States, the District of Columbia or a foreign nation from teaching massage therapy; provided the instructor is duly licensed or registered, if required, and is qualified in the instructor's place of residence for the practice of massage therapy. The board shall establish by rule the duration of stay for a visiting massage therapy instructor; and
- D. sobadores; Hispanic traditional healers; Native American healers; reflexologists whose practices are limited to hands, feet and ears; practitioners of polarity, Trager approach, Feldenkrais method, craniosacral therapy, Rolfing structural integration, reiki, ortho-bionomy or ch'i gung; or practitioners of healing modalities not listed in this subsection who do not manipulate the soft tissues for therapeutic purposes from practicing those skills. An exempt practitioner who applies for a license or registration pursuant to the Massage Therapy Practice Act shall comply with all licensure requirements of that act.

History: Laws 2001, ch. 121, § 1; 2007, ch. 174, § 1.

61-12C-6. Repealed.

61-12C-7. Board created; membership. (Repealed effective July 1, 2022.)

- A. The "massage therapy board" is created. The board is administratively attached to the department.
- B. The board consists of five members who are New Mexico residents. Members of the board shall be appointed by the governor to terms of four years. The terms shall be staggered, and the governor shall make appointments of two two-year terms, two three-year terms and one four-year term, if necessary to produce staggered terms. Three members of the board shall be massage therapists, each with at least five years of massage therapy practice and who are actively engaged in the practice of massage therapy during their tenure as members. Two members of the board shall be public members who have not been licensed and have no financial interest, direct or indirect, in the profession of massage therapy.
- C. Each member of the board shall hold office until a successor has been appointed and qualified.
- D. No board member shall serve more than two full consecutive terms.
- E. The board shall elect annually a chair and other officers as it deems necessary. The board shall meet as often as necessary for the conduct of business, but no less than twice a year. Meetings shall be held in accordance with the Open Meetings Act [Chapter 10, Article 15 NMSA 1978]. Three members, at least one of whom must be a public member, shall constitute a quorum.
- F. A board member may be recommended for removal as a member of the board for failing to attend, after proper notice, three consecutive board meetings.
- G. Members of the board shall be reimbursed as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

History: Laws 1991, ch. 147, § 7; 1993, ch. 173, § 6; 1999, ch. 240, § 6.

61-12C-8. Board powers. (Repealed effective July 1, 2022.)

The board has the power to:

- A. adopt and file, in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], rules necessary to carry out the provisions of the Massage Therapy Practice Act, in accordance with the provisions of the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978];
- B. provide for the evaluation of the qualifications of applicants for licensure or registration under the Massage Therapy Practice Act;
- C. provide for the issuance of licenses or registrations to applicants who meet the requirements of the Massage Therapy Practice Act;
- D. provide for the inspection, when required, of the business premises of any licensee or registrant during regular business hours;
- E. establish minimum training and educational standards for licensure as a massage therapist or registration as a massage therapy instructor;
- F. pursuant to the Uniform Licensing Act, conduct hearings on charges against applicants, licensees or registrants and take actions described in Section 61-1-3 NMSA 1978;
- G. bring an action for injunctive relief in district court seeking to enjoin a person from violating the provisions of the Massage Therapy Practice Act;

- H. issue cease and desist orders to persons violating the provisions of the Massage Therapy Practice Act or any rule adopted by the board pursuant to that act;
- I. adopt an annual budget;
- J. adopt a code of professional conduct;
- K. provide for the investigation of complaints against licensees; and
- L. publish at least annually combined or separate lists of licensed massage therapists, registered massage therapy instructors and registered massage therapy schools.

History: Laws 1991, ch. 147, § 8; 1993, ch. 173, § 7; 1999, ch. 240, § 7.

61-12C-9. Requirements for licensure of massage therapists and registration of massage therapy instructors. (Repealed effective July 1, 2022.)

A. The board shall issue a license to practice massage therapy to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

- (1) has reached the age of majority;
- (2) has completed all educational requirements established by the board; and
- (3) has completed at least six hundred fifty hours in length that includes at least five hundred hours of massage therapy instruction.

B. The board shall register as a massage therapy instructor any applicant who:

- (1) is currently licensed as a massage therapist; and
- (2) has completed the educational and experience requirements established by the board, which requirements shall meet minimum standards of training and curriculum for massage therapy instructors established by the board.

C. An initial license or registration issued pursuant to this section may be for a period of up to two years pursuant to board rule.

History: Laws 1991, ch. 147, § 9; 1993, ch. 173, § 8; 1999, ch. 240, § 8.

61-12C-10. Requirements for registration of massage therapy schools. (Repealed effective July 1, 2022.)

A. The board shall establish by rule procedures for the registration of massage therapy schools and shall register massage therapy schools that meet the requirements of the Massage Therapy Practice Act and rules adopted by the board pursuant to that act.

B. The board shall establish minimum standards of training and curriculum for massage therapy schools. Massage therapy schools shall provide an educational program that includes a minimum of six hundred fifty hours of training and shall include instruction in:

- (1) anatomy;
- (2) physiology;
- (3) massage therapy;
- (4) business;
- (5) hydrotherapy;
- (6) first aid;
- (7) cardiopulmonary resuscitation; and
- (8) professional ethics.

History: Laws 1991, ch. 147, § 10; 1993, ch. 173, § 9; 1999, ch. 240, § 9.

61-12C-11. Display of license or registration. (Repealed effective July 1, 2022.)

A massage therapy license or registration issued by the board shall at all times be posted in a conspicuous place in the holder's principal place of business.

History: Laws 1991, ch. 147, § 11; 1993, ch. 173, § 10; 1999, ch. 240, § 10.

61-12C-12. Assignability of license. (Repealed effective July 1, 2022.)

A license or registration issued pursuant to the Massage Therapy Practice Act is not assignable or transferable.

History: Laws 1991, ch. 147, § 12; 1993, ch. 173, § 11.

61-12C-13. Examinations. (Repealed effective July 1, 2022.)

A. The board shall establish by rule the required examinations and the procedures for taking and retaking them. The board shall determine the passing grade on examinations.

B. The board shall specify by rule the general areas of competency to be covered by examinations for licensure and ensure that the examinations measure adequately both an applicant's competency and knowledge of related statutory requirements. Professional testing services may be utilized for the examinations.

History: Laws 1991, ch. 147, § 13; 1993, ch. 173, § 12; 1999, ch. 240, § 11.

61-12C-14. Temporary license. (Repealed effective July 1, 2022.)

A. Prior to examination, an applicant for licensure may obtain a temporary license to engage in the practice of massage therapy if the applicant meets all the requirements for licensure except completion of the examination.

B. The temporary license is valid until the results of the next scheduled examination are available and a license is issued or denied.

C. No more than one temporary license may be issued to an individual, and no temporary license shall be issued to an applicant who has previously failed the examinations.

History: Laws 1991, ch. 147, § 14; 1993, ch. 173, § 13; 1999, ch. 240, § 12.

61-12C-15. Repealed.

61-12C-16. Licensure by credentials. (Repealed effective July 1, 2022.)

After successful completion of a jurisprudence examination, the board may license an applicant, provided that he possesses a valid license or registration to practice massage therapy issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation and has met educational and examination requirements equal to or exceeding those established pursuant to the Massage Therapy Practice Act.

History: Laws 1991, ch. 147, § 16; 1993, ch. 173, § 14; 1999, ch. 240, § 13.

61-12C-17. License or registration renewal; continuing education. (Repealed effective July 1, 2022.)

A. Massage therapy licenses and massage therapy instructor registrations shall expire biennially. Massage therapy school registrations shall expire annually. Expiration dates shall be established by rule.

B. The board may establish continuing educational requirements as a condition of the renewal of massage therapy licenses and massage therapy instructor registrations.

C. A license or registration shall be renewed by submitting a renewal application on a form provided by the board.

D. A sixty-day grace period shall be allowed each license or registration holder after the end of the renewal period, during which time a license or registration may be renewed upon payment of the renewal fee and a late fee as prescribed by the board.

History: Laws 1991, ch. 147, § 17; 1993, ch. 173, § 15; 1999, ch. 240, § 14.

61-12C-18. Inactive status. (Repealed effective July 1, 2022.)

A. A massage therapy license or massage therapy instructor registration not renewed at the end of the sixty-day grace period shall be placed on inactive status for a period not to exceed two years. At the end of two years, if the license or registration has not been reactivated, it shall automatically expire.

B. If within a period of two years from the date the license or registration was placed on inactive status the massage therapist or massage therapy instructor wishes to resume practice, the board shall be notified in writing, and, upon proof of completion of any continuing education or refresher courses prescribed by rule of the board and payment of an amount set by the board in lieu of all lapsed renewal fees, the license or registration shall be restored in full.

History: Laws 1991, ch. 147, § 18; 1999, ch. 240, § 15.

61-12C-19. Repealed.

61-12C-20. License fees. (Repealed effective July 1, 2022.)

The board shall establish by rule a schedule of reasonable fees for applications, examinations, licenses, registrations, inspections, renewals, penalties, reactivation and necessary administrative fees, but no single fee shall exceed five hundred dollars (\$500). All fees collected shall be deposited in the massage therapy fund.

History: Laws 1991, ch. 147, § 20; 1993, ch. 173, § 16; 1999, ch. 240, § 16.

61-12C-21. Advertising. (Repealed effective July 1, 2022.)

A massage therapist, massage therapist instructor or massage therapy school licensed or registered pursuant to the Massage Therapy Practice Act shall include the number of the license or registration, and the designation as a "massage therapist", "registered massage therapy instructor" or "registered massage therapy school" in any advertisement of massage therapy services as established by board rule.

History: Laws 1991, ch. 147, § 21; 1993, ch. 173, § 17; 1999, ch. 240, § 17.

61-12C-22. Power of county or municipality to regulate massage. (Repealed effective July 1, 2022.)

A county or municipality, within its jurisdiction, may regulate persons licensed pursuant to the Massage Therapy Practice Act. Regulation shall not be inconsistent with the provisions of that act. This section shall not be construed to prohibit a county or municipality from enacting any regulation of persons not licensed pursuant to that act.

History: Laws 1991, ch. 147, § 22.

61-12C-23. Fund created. (Repealed effective July 1, 2022.)

There is created in the state treasury the "massage therapy fund". Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Massage Therapy Practice Act. All funds received or collected by the board or the department under the Massage Therapy Practice Act shall be deposited with the state treasurer, who shall place the money to the credit of the massage therapy fund. No balance in the fund at the end of any fiscal year shall revert to the general fund.

History: Laws 1991, ch. 147, § 23.

61-12C-24. Denial, suspension, revocation and reinstatement of licenses. (Repealed effective July 1, 2022.)

A. Pursuant to the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978], the board may take disciplinary action against a person licensed or registered pursuant to the Massage Therapy Practice Act.

B. The board has authority to take an action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that the licensee, registrant or applicant:

- (1) is guilty of fraud, deceit or misrepresentation;
- (2) attempted to use as his own the license or registration of another;
- (3) allowed the use of his license or registration by another;
- (4) has been adjudicated as mentally incompetent by regularly constituted authorities;
- (5) has been convicted of any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;
- (6) is guilty of unprofessional or unethical conduct or a violation of the code of ethics;
- (7) is habitually or excessively using controlled substances or alcohol;
- (8) is guilty of false, deceptive or misleading advertising;
- (9) is guilty of aiding, assisting or advertising any unlicensed or unregistered person in the practice of massage therapy;
- (10) is grossly negligent or incompetent in the practice of massage therapy;
- (11) has had a license or registration to practice massage therapy revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee or registrant similar to acts described in this section. A certified copy of the record of conviction shall be conclusive evidence of the conviction; or
- (12) is guilty of failing to comply with a provision of the Massage Therapy Practice Act or rules of the board adopted pursuant to that act and filed in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978].

C. Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board, and shall conform with the provisions of the Uniform Licensing Act.

D. The board may establish the guidelines for the disposition of disciplinary cases. Guidelines may include but shall not be limited to minimum and maximum fines, periods of probation, conditions of probation or reissuance of a license or registration.

E. License and registration holders who have been found culpable and sanctioned by the board shall be responsible for the payments of all costs of the disciplinary proceedings.

History: Laws 1991, ch. 147, § 24; 1993, ch. 173, § 18; 1999, ch. 240, § 18.

61-12C-25. Criminal offender's character evaluation. (Repealed effective July 1, 2022.)

The provisions of the Criminal Offender Employment Act [~~28-2-1~~ to ~~28-2-6~~ NMSA 1978] shall govern any consideration of criminal records required or permitted by the Massage Therapy Practice Act.

History: Laws 1991, ch. 147, § 25.

61-12C-26. Protected actions. (Repealed effective July 1, 2022.)

A. No member of the board shall bear liability or be subject to civil damages or criminal prosecution for any action undertaken or performed within the scope of his duty.

B. No person or legal entity providing truthful and accurate information to the board, whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.

History: Laws 1993, ch. 173, § 19.

61-12C-27. Offenses; criminal penalties. (Repealed effective July 1, 2022.)

A person who does any of the following is guilty of a misdemeanor and shall be sentenced pursuant to Section ~~31-19-1~~ NMSA 1978:

A. violates a provision of the Massage Therapy Practice Act or rules adopted pursuant to that act;

B. renders or attempts to render massage therapy services, instruction as a massage therapy instructor or instruction as a massage therapy school without the required current valid license or registration issued by the board; or

C. advertises or uses a designation, diploma or certificate implying that he is a massage therapist, massage therapy instructor or massage therapy school unless he holds a current valid license or registration issued by the board.

History: Laws 1993, ch. 173, § 20; 1999, ch. 240, § 19.

61-12C-28. Termination of agency life; delayed repeal. (Repealed effective July 1, 2022.)

The massage therapy board is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act [~~12-9-11~~ through ~~12-9-21~~ NMSA 1978]. The board shall continue to operate according to the provisions of the Massage Therapy Practice Act until July 1, 2022. Effective July 1, 2022, Chapter ~~61~~, Article 12C NMSA 1978 is repealed.

History: Laws 1993, ch. 173, § 21; 2000, ch. 4, § 9; 2005, ch. 208, § 8; 2015, ch. 119, § 13.