

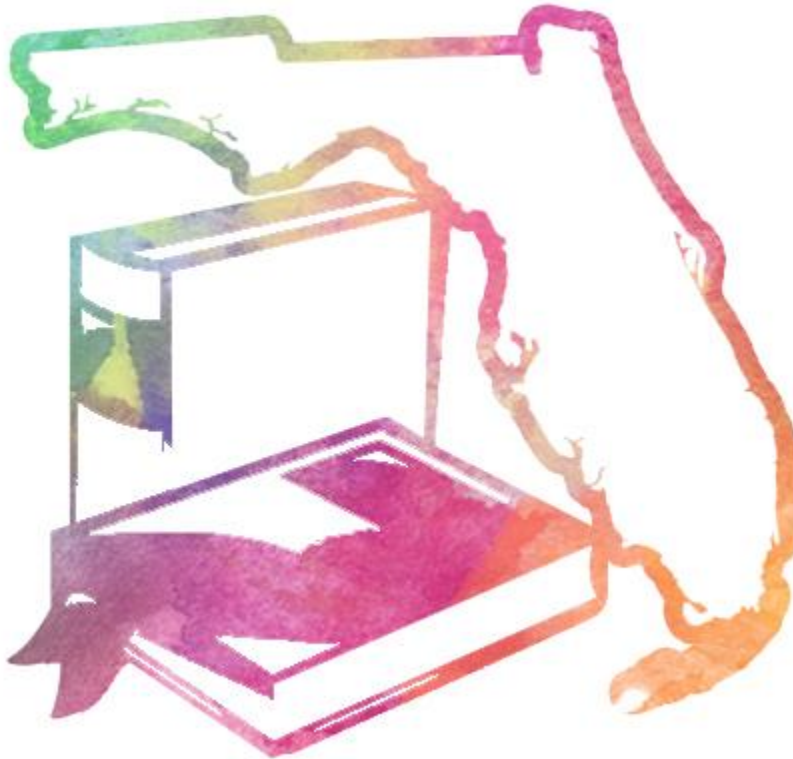
# Florida Laws & Rules

2 CE Hours

Course # 20-390691

## Class Objectives

- Understand how your massage organizations assist in affecting the laws regarding massage therapy
- Understand what you can do to help change the laws that govern your industry
  - Better understand the laws that govern your industry
  - Know where to find all the rules for massage therapy online



## Instructor

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# Advanced Fundamentals Education, LLC

Advanced Fundamentals Education, LLC is an approved continuing education provider for massage therapists. We are approved through NCBTMB & the State of Florida to offer continuing education credits to massage therapists.

NCBTMB Provider #: 451911-12

State of Florida Provider #: 50-13930

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## Directions:

You can download this .pdf file to your computer or review the material online while you take the exam.

The reading material and exam are NOT timed. Read through the material presented thoroughly.

### Once you are ready to take the exam:

- 1) If you are not on the password protected page, go to it. This is the same page you downloaded your course material on. A password was emailed to you when you purchased your online CEU course. The link to the course download and quiz completion page can also be found on the online course description page.
- 2) Complete the quiz. A passing grade is 70% or higher. You have unlimited attempts to pass your exam.
- 3) You will be emailed your results as well as a certificate of completion if you passed within 24 hours during business hours (M-F, 10am-4pm). We strive to deliver your results as soon as possible, the majority of the time on the same day.
- 4) Make sure you have saved our email to your contacts to ensure proper delivery of your certificate of completion. [AdvFundamentals@Gmail.com](mailto:AdvFundamentals@Gmail.com)
- 5) For Florida Massage Therapists, your course completions are reported once per week.
- 6) If you have any questions not answered here or on the FAQ section of the website please contact us.

\* Note: It is highly recommended that you print up any course material you wish to keep as well as your certificates of completion. Your certificate of completion is your proof you completed this course.

\* Note: If you are submitting credit for your NCBTMB re-certification you are responsible for submission of all your hours along with course information and any certificates needed as proof of completion.

The laws and rules that govern massage therapy are very **important to the continued legitimacy and advancement of our profession**. Some laws can seem limiting to the advanced therapist that works at a rehabilitation level, but most come from a place of good intention and protect the industry as a whole. The information provided in this class is current and up to date to the best of knowledge. The laws and statutes periodically change; make sure to check online for the most updated information.

You can and should access the entire massage therapy act online and review it to make sure you understand your rights and limitations.

The entire act can be accessed here:

<http://floridasmassagetherapy.gov/renewals/massage-therapist/>

### **Why should there be laws that govern massage therapy?**

Massage Therapists work with the public and the public needs to be protected. By having a set of guidelines with minimum standards of education, the public is ensured a **minimum level of competency is achieved in order for a person to practice as a massage therapist**. Imagine if there were no minimum standards for massage. Is your friend that rubs your shoulders as competent as you are when it comes to rehabilitation based massage techniques? Do they have the knowledge of when they should and should not perform techniques based on a person's medical history?

There are many different levels of knowledge and experience amongst massage therapists. At the entry level all massage therapists are health care providers and as such, put in a position of power and assumed knowledge. The laws set forth for massage therapy ensure there is enough knowledge and understanding to do no harm to the public.

A consistent level of education throughout a given area helps the therapist as well as the public. Having a base line for what a licensed massage therapist is helps differentiate licensed from non-licensed bodywork. This can also help protect licensed therapists by ensuring people that do not meet the minimum requirements cannot enter the profession and lower the overall quality of massage therapy. The regulations protect the public by ensuring only someone that understands enough about the body can be a licensed massage therapist. They also protect the public by providing a formal procedure and policy for filing grievances against wrongdoing by health care providers.

## **How it all works**

You go to massage school, pass your classes, take the certification exam, apply for your license and BAM! You're a massage therapist. You probably want to help people and have a rewarding career that will help you support yourself and your family.

Congratulations on becoming a massage therapist! It's a great field to be in. If you've been a therapist for a long time, congratulations on continuing along the path of health and humanity.



Some common thoughts a new therapist may have are:

- What opportunities are available?
- What job will I get?
- Will I open my own practice?
- How do I get more clients in?
- How do I get more involved with my specialty?

Some thoughts a new therapist probably is NOT thinking:

- How do the laws that govern my profession actually come about?
- Do the massage organizations have any control over how the laws are made?
- Can I do anything to help make the profession better?

If you find yourself beginning to think these questions there are some excellent resources available. You can find out updated legislative news from your massage organizations at the State and National Level.

AMTA Florida has a page devoted to laws and legislation where they update massage therapists about any changes occurring.

Their website is:

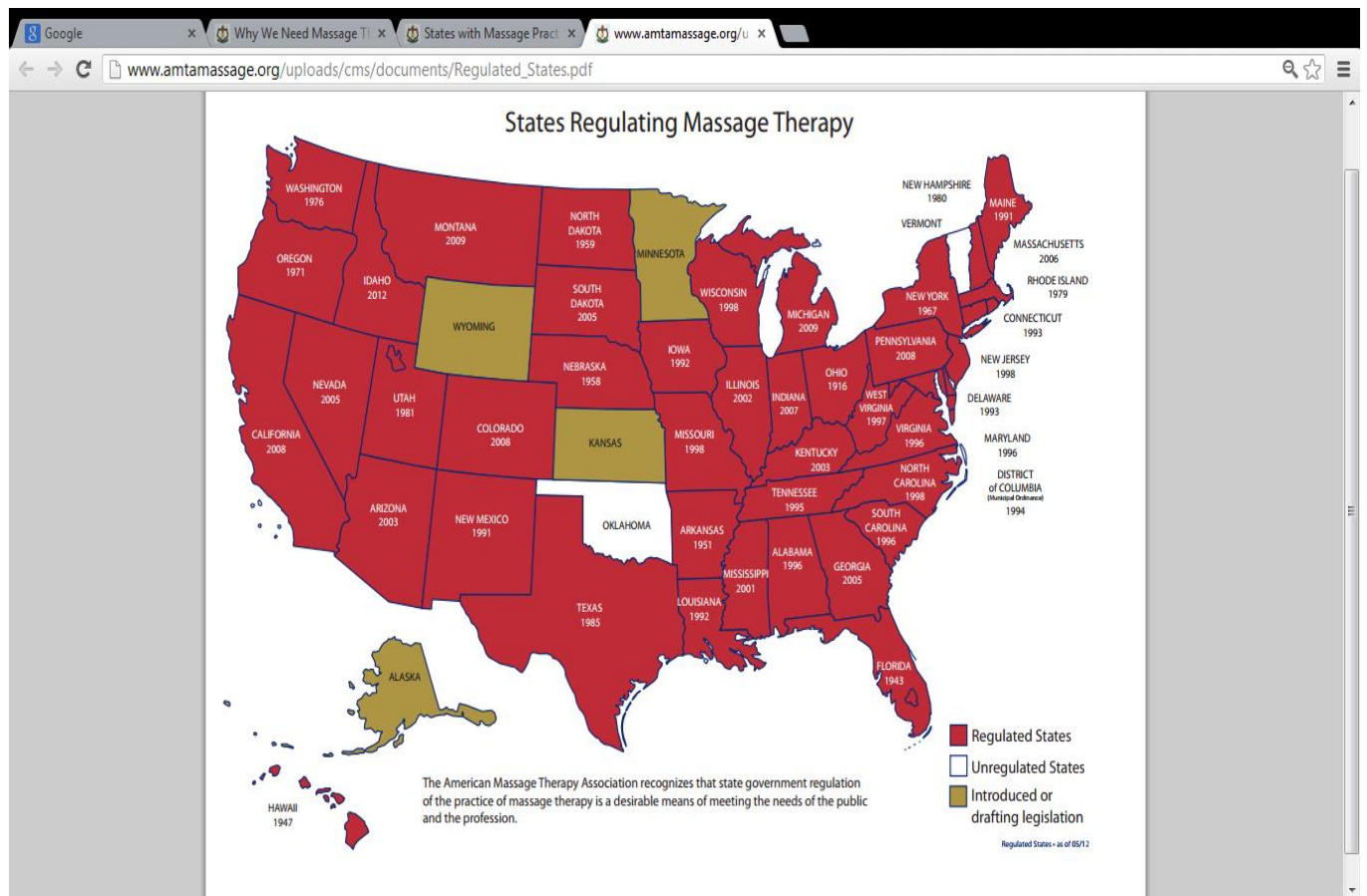
<http://amtaflorida.org/lawsrules.php>

The AMTA National website is a great source for legislative information and history.

Their website is:

<http://www.amtamassage.org/about/lawstate.html>

Below is a screenshot from the AMTA national website, which highlights the various states that are regulated along with their initial regulation date. The map shows how many states have made the transition to state legislation of massage therapy. Many massage professionals believe the next step is a unified national front stating minimum standards of competency for a massage therapist.



Another organization in the state of Florida is the Florida State Massage Therapy Association, known as FSMTA. The FSMTA has a presence at the state legislature in Tallahassee, Fl.

FSMTA has been vital in achieving some legislation that has moved the massage profession towards a better future for all therapists. The FSMTA website is [www.FSMTA.org](http://www.FSMTA.org)

The following is a list of legislation accomplished by FSMTA:

<http://www.fsmta.org/about/legislative-accomplishments/>

- Legal designation changed from Masseur/Masseuse to Licensed Massage Therapist (LMT).
- Revising the Insurance Law enabled LMTs to bill health insurance for Rx services (a national precedent).
- The continued exemption from Florida sales tax for all massage therapy services.
- The change of terminology in the definition of massage from manipulation of “superficial tissue” to “SOFT TISSUE.”
- Acquiring exemption from the 1988 Dietetics Act enabled LMTs to continue providing nutritional products.
- The retention of massage therapy license law during F.S. 480 Sunset Reviews.
- Annual Legislative Awareness Day provides face time with lawmakers.
- The establishment of a successful grassroots program with a united voice in protecting professional rights.

#### **Who does all the legislative work for the massage organizations?**

- Paid employees?
- Lawyers?
- Lobbying firms?
- Volunteers?
- All of the above?

The answer is all the above. Massage organizations have employees, but most of the accomplishments are done by, or organized by, **volunteers**.

Most therapists think the massage organization dues they pay yearly go towards the overall structure of the organization which leads to the many accomplishments made. While the dues paid do go towards this as well as some salaried positions in the organization, the majority of the work performed is done by volunteers. Volunteers are the nuts and bolts of the massage organization machine. Volunteers staff the outreach and PR events. Volunteers give their time to manage local and state level chapters. Volunteers just like you make the massage profession a better profession every day.

There are paid lobbyist and lawyers who meet with law makers to push the massage organization’s agenda and make sure it’s opinions are heard. And the only way to make sure your opinion is heard is to participate.

Take a look into what you can do to help your profession continue to grow and advance. Here are a few links for volunteering:

## **AMTA Florida Chapter**

<http://amtaflorida.org/volunteer.php>

## **FSMTA**

You can contact your local chapter by following the links from the main page below:

<http://www.Fsmta.org>

If you are interested in finding out more about whom your legislators are you can follow the links below:

<http://www.flsenate.gov/Senators/Find>

<http://www.myfloridahouse.gov/sections/representatives/myrepresentative.aspx>

Take a moment to contact your local representatives and educate them about massage therapy and how current laws are affecting you as a therapist. The most important thing to remember about the legislative process is you have a voice and you must speak up in order for that voice to be heard.

- If you find yourself affected by changing laws, speak up
- If you don't know what the laws are, educate yourself
- If you don't know what to do, contact your massage organization and ask

One of the biggest hurdles people tend to have is their willingness to ask. The people in the massage organizations are doing what they do because they love it and want to make a difference for the massage profession. They want to hear from you. They want your experience, knowledge and questions.

The following sections of this course contain several portions of the Florida Laws & Rules, provided by the Florida Board of Health website, pertaining to massage therapists:

- Chapter 480, Massage Practice Act
- Chapter 64B7, Board of Massage Therapy
- Chapter 456, Health Professions & Occupations: General Provisions.

*\*Note: Quiz questions only cover a small percentage of the following laws & rules. Quiz questions specify which section / law / rule the particular question is about.*



## CHAPTER 480

### REGULATION OF PROFESSIONS AND OCCUPATIONS

#### MASSAGE PRACTICE

**480.032 Purpose.**—The Legislature recognizes that the practice of massage is potentially dangerous to the public in that massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Massage is therapeutic, and regulations are necessary to protect the public from unqualified practitioners. It is therefore deemed necessary in the interest of public health, safety, and welfare to regulate the practice of massage in this state; however, restrictions shall be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market. Further, consumer protection for both health and economic matters shall be afforded the public through legal remedies provided for in this act.

#### **480.035 Board of Massage Therapy.**

- (1) The Board of Massage Therapy is created within the department. The board shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.
- (2) Five members of the board shall be licensed massage therapists and shall have been engaged in the practice of massage for not less than 5 consecutive years prior to the date of appointment to the board. The Governor shall appoint each member for a term of 4 years. Two members of the board shall be laypersons. Each board member shall be a high school graduate or shall have received a graduate equivalency diploma. Each board member shall be a citizen of the United States and a resident of this state for not less than 5 years. The appointments will be subject to confirmation by the Senate.
- (3) The Governor may at any time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over after the expiration of her or his term until her or his successor has been duly appointed and qualified. No board member shall serve more than two terms, whether full or partial.
- (4) The board shall, in the month of January, elect from its number a chair and a vice chair.
- (5) The board shall hold such meetings during the year as it may determine to be necessary, one of which shall be the annual meeting. The chair of the board shall have the authority to call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.
- (6) Board members shall receive per diem and mileage as provided in s. 112.061 from the place of residence to the place of meeting and return.
- (7) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

**480.039 Investigative services.**—The department shall provide all investigative services required in carrying out the provisions of this act.

**480.041 Massage therapists; qualifications; licensure; endorsement.**

- (1) Any person is qualified for licensure as a massage therapist under this act who:
  - (a) Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;
  - (b) Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and
  - (c) Has received a passing grade on an examination administered by the department.
- (2) Every person desiring to be examined for licensure as a massage therapist shall apply to the department in writing upon forms prepared and furnished by the department. Such applicants shall be subject to the provisions of s. 480.046(1). Applicants may take an examination administered by the department only upon meeting the requirements of this section as determined by the board.
- (3) Upon an applicant's passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.
- (4) The board shall adopt rules:
  - (a) Establishing a minimum training program for apprentices.
  - (b) Providing for educational standards, examination, and certification for the practice of colonic irrigation, as defined in s. 480.033(6), by massage therapists.
  - (c) Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.

**480.0415 License renewal.**—The board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed 25 classroom hours per biennium. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

**480.043 Massage establishments; requisites; licensure; inspection.**

- (1) No massage establishment shall be allowed to operate without a license granted by the department in accordance with rules adopted by the board.
- (2) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.
- (3) Any person, firm, or corporation desiring to operate a massage establishment in the state shall submit to the department an application, upon forms provided by the department, accompanied by any information requested by the department and an application fee.
- (4) Upon receiving the application, the department may cause an investigation to be made of the proposed massage establishment.
- (5) If, based upon the application and any necessary investigation, the department determines that the proposed establishment would fail to meet the standards adopted by the board under subsection (2),

the department shall deny the application for license. Such denial shall be in writing and shall list the reasons for denial. Upon correction of any deficiencies, an applicant previously denied permission to operate a massage establishment may reapply for licensure.

(6) If, based upon the application and any necessary investigation, the department determines that the proposed massage establishment may reasonably be expected to meet the standards adopted by the department under subsection (2), the department shall grant the license under such restrictions as it shall deem proper as soon as the original licensing fee is paid.

(7) License Transfer

(a) Once issued, no license for operation of a massage establishment may be transferred from one owner to another.

(b) A license may be transferred from one location to another only after inspection and approval by the board and receipt of an application and inspection fee set by rule of the board, not to exceed \$125.

(c) A license may be transferred from one business name to another after approval by the board and receipt of an application fee set by rule of the board, not to exceed \$25.

(8) Renewal of license registration for massage establishments shall be accomplished pursuant to rules adopted by the board. The board is further authorized to adopt rules governing delinquent renewal of licenses and may impose penalty fees for delinquent renewal.

(9) The board is authorized to adopt rules governing the periodic inspection of massage establishments licensed under this act.

#### **480.044 Fees; disposition.**

(1) The board shall set fees according to the following schedule:

(a) Massage therapist application and examination fee: not to exceed \$250.

(b) Massage therapist initial licensure fee: not to exceed \$150.

(c) Establishment application fee: not to exceed \$200.

(d) Establishment licensure fee: not to exceed \$150.

(e) Biennial establishment renewal fee: not to exceed \$150.

(f) Biennial massage therapist licensure renewal fee: not to exceed \$200.

(g) Massage therapist reexamination fee: not to exceed \$250.

(h) Fee for apprentice: not to exceed \$100.

(i) Colonics examination fee: not to exceed \$100.

(j) Colonics reexamination fee: not to exceed \$100.

(k) Application and reactivation for inactive status of a massage therapist license fee: not to exceed \$250.

(l) Renewal fee for inactive status: not to exceed \$250.

(2) The department shall impose a late fee not to exceed \$150 on a delinquent renewal of a massage establishment license.

(3) The board may establish by rule an application fee not to exceed \$100 for anyone seeking approval to provide continuing education courses and may provide by rule for a fee not to exceed \$50 for renewal of providership.

(4) The department is authorized to charge the cost of any original license or permit, as set forth in this chapter, for the issuance of any duplicate licenses or permits requested by any massage therapist or massage establishment.

(5) All moneys collected by the department from fees authorized by this act shall be paid into the Medical Quality Assurance Trust Fund in the department and shall be applied in accordance with the provisions of s. 456.025. The Legislature may appropriate any excess moneys from this fund to the General Revenue Fund.

#### **480.046 Grounds for disciplinary action by the board.**

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.

(b) Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising to induce or attempt to induce, or to engage or attempt to engage, the client in unlawful sexual misconduct as described in s. 480.0485.

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.

(g) Making deceptive, untrue, or fraudulent representations in the practice of massage.

(h) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.

(i) Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

- (k) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.
  - (l) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.
  - (m) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.
  - (n) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.
  - (o) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.
  - (p) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
- (2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).
- (3) The board shall have the power to revoke or suspend the license of a massage establishment licensed under this act, or to deny subsequent licensure of such an establishment, in either of the following cases:
- (a) Upon proof that a license has been obtained by fraud or misrepresentation.
  - (b) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.
- (4) Disciplinary proceedings shall be conducted pursuant to the provisions of chapter 120.

**480.0465 Advertisement.**—Each massage therapist or massage establishment licensed under the provisions of this act shall include the number of the license in any advertisement of massage services appearing in any newspaper, airwave transmission, telephone directory, or other advertising medium. Pending licensure of a new massage establishment pursuant to the provisions of s. 480.043(6), the license number of a licensed massage therapist who is an owner or principal officer of the establishment may be used in lieu of the license number for the establishment.

**480.047 Penalties.**

- (1) It is unlawful for any person to:
- (a) Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this chapter or unless otherwise specifically exempted from licensure under this chapter.
  - (b) Operate any massage establishment unless it has been duly licensed as provided herein, except that nothing herein shall be construed to prevent the teaching of massage in this state at a board-approved massage school.

- (c) Permit an employed person to practice massage unless duly licensed as provided herein.
- (d) Present as his or her own the license of another.
- (e) Allow the use of his or her license by an unlicensed person.
- (f) Give false or forged evidence to the department in obtaining any license provided for herein.
- (g) Falsely impersonate any other license holder of like or different name.
- (h) Use or attempt to use a license that has been revoked.
- (i) Otherwise violate any of the provisions of this act.

(2) Except as otherwise provided in this chapter, any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**480.0475 Massage establishments; prohibited practices.**

(1) A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:

- (a) Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;
- (b) In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an advanced registered nurse practitioner licensed under part I of chapter 464, or a dentist licensed under chapter 466; or
- (c) Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.

(2) A person operating a massage establishment may not use or permit the establishment to be used as a principal domicile unless the establishment is zoned for residential use under a local ordinance.

(3) A person violating the provisions of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent violation of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**480.0485 Sexual misconduct in the practice of massage therapy.**—The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

**480.049 Civil proceedings.**—As cumulative to any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this act or the lawful rules or orders of the department.

**480.0535 Documents required while working in a massage establishment. —**

(1) In order to provide the department and law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking, a person employed by a massage establishment and any person performing massage therein must immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment. A valid government identification for the purposes of this section is:

- (a) A valid, unexpired driver license issued by any state, territory, or district of the United States;
- (b) A valid, unexpired identification card issued by any state, territory, or district of the United States;
- (c) A valid, unexpired United States passport;
- (d) A naturalization certificate issued by the United States Department of Homeland Security;
- (e) A valid, unexpired alien registration receipt card (green card); or
- (f) A valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

(2) A person operating a massage establishment must:

- (a) Immediately present, upon the request of an investigator of the department or a law enforcement officer:
  - 1. Valid government identification while in the establishment.
  - 2. A copy of the documentation specified in paragraph (1)(a) for each employee and any person performing massage in the establishment.
- (b) Ensure that each employee and any person performing massage in the massage establishment is able to immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment.

(3) A person who violates any provision of this section commits:

- (a) For a first violation, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (b) For a second violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (c) For a third or subsequent violation, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## **CHAPTER 64B7**

### **64B7-24.018 Voluntary Relinquishment of License.**

(1) If a licensee wishes to voluntarily relinquish a license at a time when no investigation has been initiated against the licensee, no investigation against the licensee is anticipated, and no disciplinary action is pending, and the licensee is not under any current restrictions or obligations by the Board of this state or any other jurisdiction, then the licensee's request for voluntary relinquishment may be acted upon by staff without further action by the Board. In such a case, the voluntary relinquishment shall not be considered action against the license as that term is used in Section 456.072(1)(f), F.S.

(2) If a licensee wishes to voluntarily relinquish a license, but the licensee or the license is currently under any of the constraints set forth in subsection (1) above, then the licensee may relinquish the license only with the approval of the Board. If the voluntary relinquishment is accepted by the Board at the time an investigation is underway, or is anticipated, or when a disciplinary action is in progress, then the acceptance of the voluntary relinquishment of the license shall be considered action against the license as that term is used in Section 456.072(1)(f), F.S., and shall be reported as such by the Board.

### **64B7-24.020 Public Comment.**

The Board of Massage Therapy invites and encourages all members of the public to provide comment on matters or propositions before the Board or a committee of the Board. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Board after an agenda item is introduced at a properly noticed board meeting.

(2) Members of the public shall be limited to three (3) minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Board members, staff or board counsel. The chair of the Board may extend the time to provide comment if time permits.

(3) Members of the public shall notify board staff in writing of their interest to be heard on a proposition or matter before the Board. The notification shall identify the person or entity, indicate support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of three (3) or more persons. Any person or entity appearing before the Board may use a pseudonym if he or she does not wish to be identified.

## **CHAPTER 64B7-26**

### **MASSAGE ESTABLISHMENTS**

#### **64B7-26.002 Licensure of Massage Establishments.**

(1) Each establishment, shall obtain a license from the Department as required by Section 480.043(1), F.S., by submitting a completed form BMT3 (Rev. 4/08), Massage Establishment Licensure Application, incorporated herein by reference, together with the fee set forth in Rule 64B7-27.003, F.A.C. The form and the attached instructions may be obtained from the Board office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at:

[http://www.doh.state.fl.us/mqa/massage/ap\\_business.pdf](http://www.doh.state.fl.us/mqa/massage/ap_business.pdf).



(2) The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a corporation, the application shall be submitted in the name of the corporation and shall be signed by an authorized corporate representative.

(3) An owner may operate an establishment under a name other than the name of the owner, provided such name is submitted to the Board on the application for licensure. Any advertisement by the establishment of massage therapy must include the business name, and must comply with Rule 64B7-33.001, F.A.C.

(4) The applicant shall submit proof confirming property damage and bodily injury liability insurance coverage for the proposed establishment. If the establishment is operated under a business name, the proof of insurance shall include both the name of the owner and the business name.

### **64B7-26.003 Massage Establishment Operations.**

(1) Facilities, Each establishment shall meet the following facility requirements:

(a) Comply with all local building code requirements.

(b) Provide for the use of clients a bathroom with at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand drying device such as a wall mounted electric blow dryer, and waste receptacle.

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

(d) If equipped with a whirlpool bath, sauna, steam cabinet and/or steam room, maintain clean shower facilities on the premises.

(2) Personnel. A licensed massage therapist must be on the premises of the establishment if a client is in a treatment room for the purpose of receiving massage therapy.

(3) Safety and sanitary requirements. Each establishment shall:

(a) Provide for safe and unobstructed human passage in the public areas of the premises; provide for removal of garbage and refuse; and provide for safe storage or removal of flammable materials.

(b) Maintain a fire extinguisher in good working condition on the premises. As used herein "good working condition" means meeting the standards for approval by the State Fire Marshal. Such standards are presently contained in Chapter 69A 21, F.A.C.

(c) Exterminate all vermin, insects, termites, and rodents on the premises.

(d) Maintain all equipment used to perform massage services on the premises in a safe and sanitary condition, including the regular application of cleansers and bactericidal agents to the massage table. Unless clean sheets, towels, or other coverings are used to cover the massage table for each client, "regular application," as used herein, means after the massage of each client. If clean coverings are used for each client, then "regular application" shall mean at least one time a day and also whenever oils or other substances visibly accumulate on the massage table surface.

(e) Maintain a sufficient supply of clean drapes for the purpose of draping each client while the client is being massaged, and launder before reuse all materials furnished for the personal use of the client, such as drapes, towels and linens. As used herein “drapes” means towels, gowns, or sheets.

(f) Maintain lavatories for hand cleansing and/or a chemical germicidal designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.

(g) Maintain all bathroom and shower facilities and fixtures in good repair, well-lighted and ventilated.

(4) Financial responsibility and insurance coverage. Each establishment shall maintain property damage and bodily injury liability insurance coverage. The original or a copy of such policy shall be available on the premises of the establishment.

#### **64B7-26.004 Inspection Upon Application for License.**

Upon receipt of an application for a massage establishment license, employees of the Department shall cause an inspection to be made of the site. Such inspection shall be to confirm that the site is to be utilized for “massage” as defined by Section 480.033(4), Florida Statutes, and that the criteria enunciated in Rule 64B7-26.003, F.A.C., are satisfied.

#### **64B7-26.005 Periodic Inspections.**

The Department shall make periodic inspections of all massage establishments licensed in this state no less than once each year. Such inspection shall include, but not be limited to, whether the establishment is in compliance with Rule 64B7-26.003, F.A.C., governing the establishment’s operation facilities, personnel, safety, sanitary requirements, and a review of existing insurance coverage.

#### **64B7-26.007 Transfer of Massage Establishment License.**

(1) When there is no change of ownership or location, the owner may change the business name of the establishment. The owner shall apply for a change of business name by submitting a completed Application for Licensure-Massage Establishment, Form BMT3, effective 1/98, incorporated herein by reference, accompanied by the application fee provided in subsection 64B7-27.003(2), F.A.C. When a massage establishment business name is changed, without a change in ownership or location, a new establishment inspection is not required.

(2) When there is no change of ownership, the owner of a massage establishment may transfer the license from one location to another. The owner shall apply for a change of location by submitting a completed Application for Licensure-Massage Establishment, accompanied by the application fee provided in subsection 64B7-27.003(3), F.A.C. A massage establishment license may not be transferred from one location to another until after inspection by the department.

#### **64B7-26.010 Sexual Activity Prohibited.**

(1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited.

(2) No massage establishment owner shall engage in or permit any person or persons to engage in sexual activity in such owner's massage establishment or use such establishment to make arrangements to engage in sexual activity in any other place.

(3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client or to make arrangements to engage in sexual activity with any client.

(4) As used in this rule, "sexual activity" means any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse. For purposes of this subsection, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred. Nothing herein shall be interpreted to prohibit a licensed massage therapist, duly qualified under Rule 64B7-31.001, F.A.C, from practicing colonic irrigation.

## **CHAPTER 64B7-27**

### **FEE SCHEDULE**

#### **64B7-27.100 Fees.**

(1) Fees applicable to massage therapists:

- (a) Application fee for applicants graduating from a board-approved massage program: \$50.00
- (b) Application fee for applicants completing an apprenticeship program: \$100.00
- (c) Initial licensure fee: \$100.00
- (d) Renewal fee (active or inactive license): \$100.00
- (e) Delinquent license fee: \$100.00
- (f) Reactivation fee: \$100.00
- (g) Change in status fee: \$50.00
- (h) Retired status fee: \$50.00

(2) Fees applicable to massage establishments:

- (a) Application fee: \$150.00
- (b) Initial licensure fee: \$100.00
- (c) Renewal fee: \$100.00
- (d) Change of business application fee: \$25.00
- (e) Transfer of location application fee: \$125.00
- (f) Delinquent license fee: \$75.00.

(3) Other fees:

- (a) Duplicate license fee: \$25.00
- (b) Unlicensed activity fee: \$5.00

## **CHAPTER 64B7-29**

### **APPRENTICESHIP**

#### **64B7-29.002 Qualification.**

Persons seeking to be apprentices shall meet the following requirements:

- (1) The applicant must have secured the sponsorship of a sponsoring massage therapist.
- (2) The applicant must complete the application furnished by the Department and pay the fee set forth in paragraph 64B7-27.100(1)(b), F.A.C.
- (3) The applicant may not be enrolled simultaneously as a student in a Board-approved massage school.

#### **64B7-29.003 Apprenticeship Training Program.**

(1) All apprenticeship training shall be conducted by the licensed sponsoring massage therapist, in a qualified massage establishment licensed pursuant to Section 480.043, F.S.

(2) Apprenticeship training shall be 12 months in duration and shall be completed within 24 months of commencement. The apprentice shall complete within the first quarter of the apprenticeship training program:

- (a) 100 hours of study in Physiology,
- (b) 100 hours of study in Anatomy, and
- (c) 15 hours of study in Statutes and Rules of Massage Practice.

(3) Course of Study for Apprentices, which incorporates that required in (2)(a), shall be as follows:

- (a) 300 hours of Physiology.
- (b) 300 hours of Anatomy.
- (c) 20 hours of Theory and History of Massage.
- (d) 50 hours of Theory and Practice of Hydro-Therapy.
- (e) 5 hours of Hygiene.
- (f) 25 hours of Statutes and Rules of Massage Practice.
- (g) 50 hours of Introduction to Allied Modalities.
- (h) 700 hours of Practical Massage.
- (i) 3 hours of Board-approved HIV/AIDS instruction.

(4) The sponsoring massage therapist shall maintain at the establishment a daily record of hours completed by the apprentice in each of the areas listed in subsection (3) above. This record shall be available for inspection during regular business hours and shall be inspected by a representative of the Department at least once within 12 months from the commencement of the apprenticeship.

(5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399-3256. If quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship shall be terminated.

(6) A graduate of a board-approved massage school who enters the apprenticeship training program, at any time after he has taken the initial licensure examination or subsequent re-examinations thereafter, must complete the entire program as required above prior to taking subsequent re-examinations. Any applicant who enters the apprenticeship training program and terminates the program is prohibited from taking the licensure examination for 1 year from the date of termination. An individual may be exempted from this provision if he terminates the apprenticeship training program and subsequently completes a program at a board-approved massage school.

#### **64B7-29.004 Termination.**

(1) If an apprentice terminates his apprenticeship, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days.

(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in Chapter 64B7, F.A.C., is found subsequent to Department inspection of the “qualified massage establishment” as defined under Rule

**64B7-29.001**, F.A.C., the apprenticeship shall be tolled until such time as the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board, the Board will require that the “sponsor” and the “apprentice” appear before the Board for the purpose of determining compliance with the apprenticeship training program requirements of Rule 64B7-29.003, F.A.C.

#### **64B7-29.005 Extension of Apprenticeship.**

An apprenticeship may be extended under the following conditions:

(1) Apprenticeships completed prior to an examination date may, upon notification by the sponsoring massage therapist to the Department, automatically be extended until the date examination results are released.

(2) If an applicant fails the first examination after his apprenticeship is completed, the Department may grant an extension of the apprenticeship with the concurrence of the sponsoring massage therapist.

(a) The apprentice must appear at the next scheduled examination for licensure.

(b) The extension of the apprenticeship shall expire upon written notification by the Department that the apprentice has failed the re-examination or on the date of the scheduled examination, should the applicant fail to appear.

#### **64B7-29.006 Change of Sponsoring Massage Therapist.**

If for any reason the sponsoring massage therapist is no longer able to sponsor an apprentice, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days. If the apprentice desires to remain in the apprenticeship program he or she must secure the sponsorship of another sponsoring massage therapist. The apprentice shall receive credit for training received from the prior sponsoring massage therapist.

#### **64B7-29.007 Colonics Training through Apprenticeship.**

A massage practitioner shall instruct another individual in colonics only under the following conditions:

- (1) The trainee must be either:
  - (a) Licensed to practice massage under Chapter 480, F.S.,
  - (b) Approved as an apprentice under Chapter 64B7-29, F.A.C., or
  - (c) A student in a Board-approved massage school.
- (2) The instructor, hereafter called sponsor, must be currently licensed under Chapter 480, F.S., and authorized to practice colonics under Chapter 64B7-31, F.A.C. The sponsor must have been actively engaged in the practice of colonics for a minimum of 3 years.
- (3) The training shall take place in a massage establishment licensed under Chapter 480, F.S., which contains the following equipment:
  - (a) Colonic equipment.
  - (b) Disposable colonic attachments or sterilization equipment for non-disposable attachments.
- (4) The licensee or apprentice who will receive colonics instruction must receive advance approval for such instruction from the Department. Such approval may be obtained in the following manner:
  - (a) If the applicant is a currently licensed massage practitioner or a student at a Board-approved massage school, application for “colonics only” apprenticeship on forms provided by the Department must be submitted. The applicant will be required to submit the apprentice fee as set forth in Rule 64B7-27.005, F.A.C.
  - (b) An unlicensed applicant for apprenticeship training may apply for colonics training approval, in addition to course work required under Rule 64B7-29.003, F.A.C.
- (5) The apprentice shall complete colonics training within 24 months of approval by the Department.
- (6) The sponsor shall certify training is complete on a Colonics Apprenticeship Report form provided by the Department when the apprentice has completed 100 hours of training in the subject, including 45 hours of clinical practicum as required by subsection 64B7-31.001(2), F.A.C. The form BOM-1 is hereby incorporated by reference and will be effective 7-3-97, copies of which may be obtained from the Board office at the 4052 Bald Cypress Way, Tallahassee, Florida 32399-3256.

## **CHAPTER 64B7-30**

### **DISCIPLINE**

#### **64B7-30.001 Misconduct and Negligence in the Practice of Massage Therapy.**

The following acts shall constitute the failure to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances:

- (1) Administering treatment in a negligent manner.
- (2) Violating the confidentiality of information or knowledge concerning a client.
- (3) Offering massage therapy at a sports event, convention or trade show without obtaining the written approval of the owner or property manager of the site at which the sports event, convention or trade show is held.
- (4) Failure to explain expected draping techniques to a client. As used in this rule, draping means towels, gowns, sheets or clothing.

(5) Failure to appropriately drape a client. Appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients, unless the client gives specific informed consent to be undraped.

#### **64B7-30.002 Disciplinary Guidelines.**

(1) When the Board finds that an applicant, apprentice, or licensee whom it regulates under Chapter 480, F.S., has committed any of the acts set forth in Sections 480.0485, 480.046, 480.047 and 456.072, F.S., and/or Title 64B7, F.A.C., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines after consideration of the aggravating and mitigating factors set forth in subsection (4) of this rule. Discipline may include any of the following: letter of concern, reprimand, license with conditions, probation, suspension, revocation and/or fines.

(2) If the offense is for fraud or making a false or fraudulent representation, the recommended penalties are:

(a) Licensee:

1. First offense: \$10,000 fine;
2. Second offense: \$10,000 fine and suspension;
3. Subsequent offense: \$10,000 fine and revocation.

(b) Applicant:

1. First offense: \$10,000 fine and a denial of licensure;
2. Subsequent offense: \$10,000 fine, denial of licensure, and prohibition on reapplication for 2 to 5 yrs.

(c) Massage Establishment:

1. \$10,000, revocation of the license, and prohibition of reapplication by the holder of the license for a period of 2 yrs.
2. In addition, if owned by a Licensed Massage Therapist:
  - a. First offense: \$10,000 fine and suspension of owner's massage therapy license.
  - b. Subsequent offense: \$10,000 fine and revocation of the owner's massage therapy license.

#### **64B7-30.004 Citations.**

(1) Definitions. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a subject in the manner provided in Section 456.077, F.S., for the purpose of assessing a penalty in an amount established by this rule;

(b) "Subject" means the licensee, applicant, person, partnership, corporation, or other entity alleged to have committed a violation designated in this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.072, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

(3) The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

(a) Refusing to allow the department to inspect the business premises of the licensee during regular business hours as required by Section 480.046(1)(l), F.S., shall result in a penalty of \$500.00.

(b) Failing to display a license or certificate as required by Rule 64B7-28.008, F.A.C., shall result in a penalty of \$250.00.

(c) Failing to keep the equipment and premises of a massage establishment in a clean and sanitary condition as required by Section 480.046(1)(m), F.S., shall result in a penalty of \$250.00.

(d) Failing to maintain property damage and bodily injury liability insurance coverage as required by subsection 64B7-26.003(4), F.A.C., shall result in a penalty of \$250.00.

(e) Failure to include the license number of either the massage therapist or the massage establishment in advertisements as required by Section 480.0465, F.S., shall result in a penalty of \$250.00.

(f) Practicing with a delinquent license in violation of Section 480.047(1)(a), F.S., when the license, has become delinquent automatically for failure to renew, so long as the license is reactivated within 30 days of becoming delinquent, shall result in a penalty of \$250.00. Practice for more than 30 days after a license has become delinquent shall not be a citation violation.

(g) Violations of Rule 64B7-28.009, F.A.C., by licensees provided that the violation did not involve bribery or fraudulent misrepresentation, shall result in a penalty of \$25.00 per hour for each hour of deficit of the continuing education hour requirement, and completion of the required continuing education.

(h) First-time failure of the licensee to satisfy continuing education requirements established by the Board; Fine of \$250.00, and one hour of continuing education for each hour not completed or completed late. These continuing education hours are to be completed within 90 days of the date of citation issuance.

(i) Failure of a massage therapist to notify the Board of a change of address as required by Section 456.035(1), F.S., shall result in a penalty of \$250.00.

(j) False, misleading or deceptive advertising by advertising massage therapy services under a name under which a license has not been issued in violation of Section 480.046(1)(d), F.S., shall result in a penalty of \$250.00.

(k) Violating Section 456.072(1)(h), F.S., by tendering a check that is dishonored by the institution upon which it is drawn shall result in a penalty of \$250.00.

(l) First time failure to comply with the HIV/AIDS continuing education requirements of Section 456.034, F.S., or the medical errors continuing education requirements of Section 456.013(7), F.S., shall result in a penalty of \$250.00 for each deficient course requirement, in addition to the requirement to make up the coursework within 90 days of the date the citation is filed.

(m) Failing to identify to a patient verbally or in writing, which may include wearing of a name tag, that a licensee is practicing as a licensed massage therapist, in violation of Section 456.072(1)(t), F.S., shall result in a penalty of \$100.00.

(4) In addition to the fines imposed herein, the costs of investigation and prosecution for each offense shall be assessed in the citation.



(5) All fines and costs imposed in a citation shall be paid within 90 days of the date the citation is filed.

#### **64B7-30.005 Mediation.**

Pursuant to Section 456.078, F.S., the Board designates first time violations of the following as appropriate for mediation:

- (1) Violation of Section 480.046(1)(d), F.S.: failure to include license number in an advertisement.
- (2) Violation of Section 480.046(1)(e) or (j) or Section 480.047(1)(a), F.S.: practicing or allowing another person to practice on a delinquent license for 60 days or less.
- (3) Violation of Section 480.046(1)(m), F.S., if the violation did not present an immediate threat to public health.
- (4) Violation of Section 480.046(1)(n), F.S.: practicing at an establishment with a license delinquent 60 days or less.
- (5) Violation of Section 456.072(1)(i), F.S.: failure to report a licensee known to be in violation.
- (6) Violation of Section 456.072(1)(k), F.S.: failure to perform a legal obligation.
- (7) Violation of Section 456.072(1)(u), F.S.: failure to comply with Sections 381.026 and 381.0261, F.S.
- (8) Violation of Section 456.072(1)(x), F.S.: failure to report convictions to the Board.
- (9) Violation of Rule 64B7-28.008, F.A.C.: failure to display a license or certificate.
- (10) Violation of Rule 64B7-26.003(4), F.A.C.: failure to maintain insurance coverage.
- (11) Violation of Section 456.035(1), F.S.: failure to notify change of address.
- (12) Violation of Section 456.013(7), F.S.: failure to complete medical errors CE.
- (13) Violation of Section 456.072(1)(t), F.S.: failure to properly identify licensee.
- (14) Failure to timely respond to a continuing education audit in violation of subsection 64B7-28.009(5), F.A.C.

#### **64B7-30.006 Notice of Noncompliance.**

Pursuant to Sections 120.695 and 456.073(3), F.S., the Board designates the following as minor violations for which a notice of noncompliance may be issued for the first violation thereof:

- (1) Failure to provide written notice of licensee's current mailing address and place of practice in violation of Rule 64B7-28.015, F.A.C.
- (2) Failure to obtain continuing education in HIV/AIDS in violation of Section 456.034, F.S.
- (3) Failure to have proof of insurance available at an establishment as required by subsection 64B7-26.003(4), F.A.C.
- (4) Failure to include license number or numbers in any advertisement as required by Section 480.0465, F.S.

#### **64B7-30.007 Probable Cause Panel.**

The determination of probable cause shall be made by the probable cause panel of the board. The probable cause panel shall consist of two members, and may include a former board member. The chair of the board shall appoint the panel members.

### **64B7-30.008 Probationary Conditions and Definitions.**

(1) Indirect Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under indirect supervision, the term indirect supervision does not require that the monitoring practitioner practice on the same premises as the respondent; however, the monitor shall practice within a reasonable geographic proximity to the respondent, which shall be within 20 miles unless otherwise authorized by the Board, and shall be readily available for consultation.

(2) Direct Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under direct supervision, the term direct supervision requires that the respondent practice only if the supervisor is on the premises.

(3) Provisions governing all supervised or monitored practitioners.

(a) The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.

(b) The respondent shall not practice without a supervisor/monitor unless otherwise ordered. The respondent shall appear at the next meeting of the Board with his proposed supervisor/monitor unless otherwise ordered.

(c) After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, the respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Board shall approve a temporary supervisor/monitor who shall serve in that capacity until the next meeting of the Board, at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

(d) The supervisor/monitor must be a licensee under Chapter 480, F.S., in good standing and without restriction or limitation on his license. In addition, the Board shall reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Board will also reject any proposed supervisor/monitor whom the Board finds has violated the Board's rules or Chapter 456 or 480, F.S.

(4) For purpose of determining the dates when reports are due, the date the Final Order is filed shall constitute the beginning of the quarter.

(a) All quarterly reports shall be provided to the Board office no later than three months from the filing date of the Final Order.

(b) All semiannual reports shall be provided to the Board office no later than six months from the filing date of the Final Order.

(c) All annual reports shall be provided to the Board office no later than twelve months from the filing date of the Final Order.

## **CHAPTER 64B7-31**

### **COLONIC IRRIGATION**

#### **64B7-31.001 Colon Hydrotherapy**

(1) Intent.

(a) The Board of Massage finds that the colon hydrotherapy procedures, while falling directly within the scope of Chapter 480, F.S., presents a substantial danger to the public if performed by incompetent practitioners.

(b) The Board of Massage further finds that a significant proportion of licensees do not perform the colonic procedure and further that a significant proportion of those desiring to enter the profession do not intend to engage in the practice of colonic irrigation.

(c) This rule is promulgated to ensure that only those who have been determined duly qualified to practice colon hydrotherapy may do so in an effort to protect the health, safety and welfare of the public.

(2) Prior to the practice of colon hydrotherapy, any licensed massage therapist, or apprentice shall be required to present certification to the Board of successful completion of examination by a Board approved massage school after completion of a supervised classroom course of study in colonic irrigation or in the case of a duly authorized apprenticeship training program, evidence of having completed 100 hours of colonic irrigation training, including a minimum of 45 hours of clinical practicum with a minimum of 20 treatments given.

(3) Prior to the practice of colonic irrigation, any licensed massage therapist, or apprentice shall be required to successfully complete and pass the National Board for Colon Hydrotherapy Examination (NBCHT) which is approved by the Board.

(4) Any licensed massage therapist whose license has been in an inactive or retired status for more than two consecutive biennial licensure cycles shall be required to successfully complete and pass the NBCHT, prior to resuming the practice of colonic irrigation.

(5) Any applicant for massage therapist licensure or licensed massage therapist, who in conjunction with previous massage therapist licensure was certified to practice colonic irrigation, shall be required to successfully complete and pass the NBCHT prior to practicing colon hydrotherapy.

## **CHAPTER 64B7-33**

### **ADVERTISEMENT**

#### **64B7-33.001 Advertisement.**

(1) Each massage therapist or massage establishment licensed under the provisions of this act shall include the number of the license in any advertisement of massage services.

(2) Any advertisement of massage services in any advertising medium as defined herein shall include the license number of each licensed massage therapist and each licensed massage establishment whose name appears in the advertisement.

(3) For purposes of this rule, “advertising medium” means: any newspaper, airwave or computer transmission, telephone directory listing other than an in-column listing consisting only of a name, address, and telephone number, business card, handbill, flyer, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

(4) No provision herein shall be construed to prohibit the use of a properly registered corporate or fictitious name, if registered according to Florida Law.

## **Chapter 456**

### **HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS**

#### **456.036 Licenses; active and inactive status; delinquency.**

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession with an inactive status license, a retired status license, or a delinquent license is in violation of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the licensee.

(2) Each board, or the department if there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active, inactive, or retired status.

(3) Each board, or the department if there is no board, shall by rule impose a fee for renewal of an active or inactive status license. The renewal fee for an inactive status license may not exceed the fee for an active status license.

(4) Notwithstanding any other provision of law to the contrary, a licensee may change licensure status at any time.

(a) Active status licensees choosing inactive status at the time of license renewal must pay the inactive status renewal fee, and, if applicable, the delinquency fee and the fee to change licensure status. Active status licensees choosing inactive status at any other time than at the time of license renewal must pay the fee to change licensure status.

(b) An active status licensee or an inactive status licensee who chooses retired status at the time of license renewal must pay the retired status fee, which may not exceed \$50 as established by rule of the board or the department if there is no board. An active status licensee or inactive status licensee who chooses retired status at any time other than at the time of license renewal must pay the retired status fee plus a change-of-status fee.

(c) An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status. Inactive status licensees choosing active status at the time of license renewal must pay the active status renewal fee, any applicable reactivation fees as set by the board, or the department if there is no board, and, if applicable, the delinquency fee and the fee to change licensure status. Inactive status licensees choosing active status at any other time than at the time of license renewal

must pay the difference between the inactive status renewal fee and the active status renewal fee, if any exists, any applicable reactivation fees as set by the board, or the department if there is no board, and the fee to change licensure status.

(5) A licensee must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active or inactive status license before the license expires. If a licensee fails to renew before the license expires, the license becomes delinquent in the license cycle following expiration.

(6) A delinquent licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent licensee to become active or inactive before the expiration of the current licensure cycle renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(7) Each board, or the department if there is no board, shall by rule impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent licensee when such licensee applies for active or inactive status.

(8) Each board, or the department if there is no board, shall by rule impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department if there is no board, may by rule impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Each board, or the department if there is no board, may by rule impose reasonable conditions, including full reexamination to assess current competency, in order to ensure that a licensee who has been on retired status for more than 5 years, or a licensee from another state who has not been in active practice within the past 5 years, and who applies for active status is able to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Requirements for reactivation of a license may differ depending on the length of time a licensee has been retired.

(11) Before reactivation, an inactive status licensee or a delinquent licensee who was inactive prior to becoming delinquent must meet the same continuing education requirements, if any,

imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

(12) Before the license of a retired status licensee is reactivated, the licensee must meet the same requirements for continuing education, if any, and pay any renewal fees imposed on an active status licensee for all biennial licensure periods during which the licensee was on retired status.

(13) The status or a change in status of a licensee does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, retired, or delinquent.

(14) A person who has been denied renewal of licensure, certification, or registration under s. 456.0635(3) may regain licensure, certification, or registration only by meeting the qualifications and completing the application process for initial licensure as defined by the board, or the department if there is no board. However, a person who was denied renewal of licensure, certification, or registration under s. 24, chapter 2009-223, Laws of Florida, between July 1, 2009, and June 30, 2012, is not required to retake and pass examinations applicable for initial licensure, certification, or registration.

(15) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business.

(16) The board, or the department when there is no board, may adopt rules pursuant to ss. 120.536(1) and 120.54 as necessary to implement this section.

#### **456.072 Grounds for discipline; penalties; enforcement.—**

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of

licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

- (t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.
- (u) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.
- (v) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).
- (w) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.
- (x) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.
- (y) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.
- (z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificate holder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.
- (aa) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.



- (bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.
- (cc) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.
- (dd) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.
- (ee) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been "upcoded" as defined in s. 627.732.
- (ff) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.
- (gg) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of any provision of this chapter, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner. Notwithstanding s. 456.073(13), the department may initiate an investigation and establish such a pattern from billing records, data, or any other information obtained by the department.
- (hh) Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.
- (ii) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.
- (jj) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.
- (kk) Being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.
- (ll) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.
- (mm) Failure to comply with controlled substance prescribing requirements of s. 456.44.
- (nn) Violating any of the provisions of s. 790.338.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

- (a) Refusal to certify, or to certify with restrictions, an application for a license.
- (b) Suspension or permanent revocation of a license.
- (c) Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.
- (d) Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of \$10,000 per count or offense.
- (e) Issuance of a reprimand or letter of concern.
- (f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.
- (g) Corrective action.
- (h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.
- (i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.
- (j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(3) Notwithstanding subsection (2):

- (a) if the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the board, or by the department if there is no board, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a fine, as determined by the board or department by rule. In addition, for each hour of continuing education not completed or completed late, the board or department, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.

(b) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, as used in ss. 464.018(1)(h), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual harm to the patient occurred, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a penalty as determined by rule of the board or department.

(4) In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, the reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing the fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(6) If the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. The requirements may include, but are not limited to, satisfying current requirements for an initial license.

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), the physician shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

(8) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

## Directions:

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The reading material and exam are NOT timed. Read through the material presented thoroughly.

### Once you are ready to take the exam:

- 1) If you are not on the password protected page, go to it. This is the same page you downloaded your course material on. A password was emailed to you when you purchased your online CEU course. The link to the course download and quiz completion page can also be found on the online course description page.
- 2) Complete the quiz. A passing grade is 70% or higher. You have unlimited attempts to pass your exam.
- 3) You will be emailed your results as well as a certificate of completion if you passed within 24 hours during business hours (M-F, 10am-4pm). We strive to deliver your results as soon as possible, the majority of the time on the same day.
- 4) Make sure you have saved our email to your contacts to ensure proper delivery of your certificate of completion. [AdvFundamentals@Gmail.com](mailto:AdvFundamentals@Gmail.com)
- 5) For Florida Massage Therapists, your course completions are reported once per week.
- 6) If you have any questions not answered here or on the FAQ section of the website please contact us.

\* Note: It is highly recommended that you print up any course material you wish to keep as well as your certificates of completion. Your certificate of completion is your proof you completed this course.

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- **The 15 questions below are the exact questions in the exact order as the online quiz.**
- **It is recommended that you prepare your answers here before taking the online quiz.**

- 1) **TRUE or FALSE:** The Laws help to ensure a minimum level of competency is achieved in order for a person to practice as a massage therapist.
- 2) **TRUE or FALSE:** The FSMTA has a list of their legislative accomplishments on their website.
- 3) **TRUE or FALSE:** Massage organizations function primarily through the efforts of volunteers.
- 4) **TRUE or FALSE:** Chapter 480.039 states all investigative services required in carrying out provisions of Chapter 480 shall be provided by the Department.
- 5) **TRUE or FALSE:** Chapter 480.044 states the Biennial massage therapist licensure renewal fee is not to exceed \$200.
- 6) Except as otherwise noted in Chapter 480.047, any person in violation of the provisions in this chapter is guilty of:
  - a. Misdemeanor of the first degree
  - b. Misdemeanor of the second degree
  - c. Felony
  - d. Fine
  - e. Fine and Imprisonment
- 7) **TRUE or FALSE:** According to Chapter 480.0475, a person may not operate a massage establishment between the hours of midnight and 5am.
- 8) **TRUE or FALSE:** According to Chapter 480.0535, documents are required while working in a massage establishment in order to more effectively identify, investigate, and arrest any person engaging in human trafficking.
- 9) **TRUE or FALSE:** According to Rule 64B7-26.004, An inspection for a massage establishment is performed to confirm that the site is to be utilized for “massage” and meets all establishment criteria as specified in Rule 64B7-26.003.
- 10) **TRUE or FALSE:** According to Rule 64B7-29.003, An apprenticeship training shall be 12 months in duration and shall be completed within 24 months of commencement.

- 11) Rule 64B7-30.001 states which of the following acts shall constitute the failure to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances:
- Administering treatment in a negligent manner
  - Violating the confidentiality of information concerning a client
  - Failure to explain expected draping techniques to a client.
  - Failure to appropriately drape a client.
  - All of the Above
- 12) **TRUE or FALSE:** According to Rule 64B7-30.004, the Department must issue a citation, if decided to, within 6 months after the filing of the complaint which is the basis for the citation.
- 13) According to Rule 64B7-30.005, which of the following first time violations are appropriate for mediation?
- Failure to include license number in an advertisement.
  - If any violation did not present an immediate threat to the public health.
  - Failure to display a license or certificate.
  - Failure to maintain insurance coverage.
  - All of the Above
- 14) **TRUE or FALSE:** According to Rule 64B7-33.001, an advertising medium means: any newspaper, airwave or computer transmission, telephone directory listing other than an in-column listing consisting only of a name, address, and telephone number, business card, handbill, flyer, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.
- 15) **TRUE or FALSE:** The purpose of Chapter 456.072 is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

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