

Tennessee Massage Law

for Tennessee Licensed Massage Therapists
and for Licensed Massage Establishments Owners and
Responsible Persons who are not Licensed Massage Therapists

2024 Update

April, 2024

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MassageWorks is approved as a continuing education provider.

National Certification Board for Therapeutic Massage and Bodywork #450843-08

This class is approved for 2 contact hours of continuing education
for Tennessee Licensed Massage Therapists and Licensed Massage Establishments
by the Tennessee Massage Licensure Board.

In-person Class: # TN010123-08

Live Webinar: # TN010123-07

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MassageWorks Handout: Tennessee Massage Law for 2023-2024

NOTICE:

This course is an overview of Tennessee Massage law.
The goal is for participants to be familiar with Tennessee Massage Law
and the Rules and Regulations of the Tennessee Massage Licensure Board.

No legal advice is offered or included.

No comments by anyone present should be construed as legal advice.

For legal advice, consult a licensed Attorney.

Only a Tennessee Licensed Attorney can give legal advice in Tennessee.

MassageWorks Handout: Tennessee Massage Law for 2023-2024

Overview

Since 2006, the Tennessee Board of Massage Licensure has required that all Tennessee Licensed Massage Therapists include a 2-hour class in Tennessee Massage Therapy Law as part of the 25 hours of continuing education that therapists are required to take every 2 years. This class is designed to fulfill this requirement, and has been approved by the Tennessee Massage Licensure Board.

Since 2012, this course has been required for applicants for a Massage Establishment License who are not Licensed Massage Therapists.

Since 2017, this course has been required for Licensed Massage Establishment Owners and Responsible Persons who are not Licensed Massage Therapists for renewal of the Massage Establishment License.

Course Objectives

The objectives of this course are:

- To familiarize you with Tennessee Law governing Tennessee Licensed Massage Therapists and Licensed Massage Establishments and recent updates and changes
- To familiarize you with the Tennessee Massage Licensure Board web site
- To familiarize you with Tennessee Rules and Regulations for Licensed Massage Therapists and Massage Establishments (T.C.A. 63-18)
- To ensure that you know how to contact the Tennessee Massage Licensure Board

<https://www.tn.gov/health/health-program-areas/health-professional-boards/ml-board.html>

Board Members

Member	Representation	Expiration
William E. Mullins, III	Massage Therapist	06-30-2022
Marvis A. Burke	Massage Therapist	06-30-2026
Virginia .P. Yarbrough	Massage Therapist	06-30-2026
Dee Vickers	Massage Therapist	06-30-2024
Emily Newberry	Massage Therapist	06-30-2026
Michael J. Velker	Citizen	06-30-2026
Alicia Azimipour	Citizen	06-30-2026

Tennessee Massage Licensure Board Meetings

Quarterly in Nashville

Massage Licensure Board

May 13, 2024

[View Event](#)

Massage Licensure Board

May 14, 2024

Massage Licensure Board

August 12, 2024

[View Event](#)

[View Event](#)

Massage Licensure Board

August 13, 2024

Massage Licensure Board

November 4, 2024

MassageWorks Handout: Tennessee Massage Law for 2023-2024

In addition to The Massage Licensure Act of 1995, the rules and regulations put into effect by the Board of Massage Licensure have the effect of law and govern the massage profession in Tennessee.

Board of Massage Licensure

Statutes

Statutes are proposed and made law by the *Tennessee State General Assembly* (Legislature). The Board, following specific notice requirements and hearings, adopts rules. Both have the force of law and may be used in the regulation of a profession. The statutes pertaining to this Board are found at T. C. A. 63-1 (Division of Health Related Boards) and T.C.A. 63-5 (Dentists).

[Click here](#) to review the *Tennessee Code Annotated*. (This link will take you to a website that is not maintained by the Tennessee Department of Health).

Rules

[Click here](#) for Rules and Regulations pertaining to the Tennessee Board of Massage Licensure

MassageWorks Handout: Tennessee Massage Law for 2023-2024

Policies

1. Policy regarding Timeframe for New Application for Change of Responsible Person
2. Policy for Therapist working at an Establishment with an Expired/Lapsed License
3. Policy for Therapist Working at an Establishment that has Never Held a Valid License
4. Lapsed License Policy for Massage Therapist
5. Lapsed License Policy for Establishments
6. Live/In-Person Continuing Education Policy During 2021-2022 CE Cycle
7. Tennessee Law Class Format Policy
8. Chiro Policy Statement Regarding Establishment License
9. Proration of Continuing Education Policy
10. Establishment License Policy
11. Continuing Education - Online College Course Related to Massage Therapy
12. Employment of Massage Therapists with Expired Licenses
13. Reiki and Energy Work
14. Required Curriculum for Tennessee Massage Law Continuing Education Courses and Massage School Instruction
15. Recommended Ethics Curriculum in Tennessee Massage Schools
16. Failure of Applicant to Comply with Referral to Impaired Practitioner Program
17. Massage Therapists Licensed in Other States or Countries
18. Letters of Recommendation Policy
19. Distance Learning Policy- Updated 5/10/22
20. Unlicensed Establishment Enforcement
21. Unlicensed Practice of Massage Therapy Enforcement
22. Substance Abuse - Applications for Licensure
23. Applicants with Criminal Convictions
24. Continuing Education Violations
25. Renewal of Licensees Called to Active Military Duty
26. Policy Statement, May 1998

Appendix 1

The Law

The Massage Licensure Act of 1995

TN CODE 63-18

63-18-101. Short title.

This chapter shall be known and may be cited as the “Massage Licensure Act of 1995.”

History: Acts 1995, ch. 480, § 2; T.C.A. § 63-18-201.

63-18-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

- (1) “Board” means the massage licensure board;
- (2) “Compensation” means the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value;
- (3) “Massage/bodywork/somatic” means the manipulation of the soft tissues of the body with the intention of positively affecting the health and well being of the client;
- (4) “Massage establishment” means a place of business held out to the public wherein massage is practiced; and
- (5) “Massage therapist” means a person who practices massage for compensation and is licensed by the board.

History: Acts 1995, ch. 480, § 3; 1996, ch. 1059, § 1; 1997, ch. 130, § 1; T.C.A. § 63-18-202.

63-18-103. Tennessee massage licensure board.

- (a) There is hereby created the Tennessee massage licensure board.
- (b) The board shall be composed of seven (7) members who are residents of the state. Except for the two (2) citizen members, each member shall have at least five (5) years current experience in the practice of massage. Persons with a conflict of interest are ineligible for membership on the board.
- (c) All members shall be appointed by the governor. Initial appointments to the board shall be as follows:
 - (1) Three (3) members shall serve terms of one (1) year; and
 - (2) Four (4) members shall serve terms of two (2) years.
- (d) Except for two (2) members who shall be citizen members with no direct or indirect financial interest in massage, all board members shall be duly licensed or eligible to be licensed by the board.
- (e)
 - (1) Notwithstanding § 3-6-304 or any other law to the contrary, and in addition to all other requirements for membership on the board:

???

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(A) Any person registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6 who is subsequently appointed or otherwise named as a member of the board shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities are regulated by the board, prior to serving as a member of the board. This subdivision (e)(1)(A) shall apply to all persons appointed or otherwise named to the board after July 1, 2010;

(B) No person who is a member of the board shall be permitted to register or otherwise serve as a lobbyist pursuant to title 3, chapter 6 for any entity whose business endeavors or professional activities are regulated by the board during such person's period of service as a member of the board. This subdivision (e)(1)(B) shall apply to all persons appointed or otherwise named to the board after July 1, 2010, and to all persons serving on the board on such date who are not registered as lobbyists; and

(C) No person who serves as a member of the board shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated by the board for one (1) year following the date such person's service on the board ends. This subdivision (e)(1)(C) shall apply to persons serving on the board as of July 1, 2010, and to persons appointed to the board subsequent to such date.

(2) A person who violates this subsection (e) shall be subject to the penalties prescribed in title 3, chapter 6.

(3) The bureau of ethics and campaign finance is authorized to promulgate rules and regulations to effectuate the purposes of this subsection (e). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and in accordance with the procedure for initiating and proposing rules by the ethics commission to the bureau of ethics and campaign finance as prescribed in § 4-55-103.

(f) Subsequent appointees to the board shall have the professional qualifications required by their predecessors and shall be appointed to five-year terms. Each member shall serve until such member's successor is appointed and qualified, unless such board member is no longer competently performing the duties of office. Any vacancy on the board shall be filled by the governor for the balance of the unexpired term. The governor may remove members of the board from office for cause.

(g) For each day engaged in the business of the board, a member shall receive as compensation one hundred dollars (\$100) and shall also receive actual expenses to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) The members of the board shall elect annually a chair and a secretary/treasurer.

(i) The board shall meet as frequently as shall be reasonably necessary to implement this chapter. Four (4) or more members of the board shall constitute a quorum for the purpose of transacting board business.

(j) For administrative purposes, the board shall be attached to the division of health related boards as defined in § 68-1-101, referred to as "division" in this chapter, which shall supply support.

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History: Acts 1995, ch. 480, § 4; T.C.A. § 63-18-203; Acts 2004, ch. 729, § 2; 2008, ch. 801, §§ 1, 2; 2010, ch. 997, §§ 3, 4.

63-18-104. License required.

(a) Persons or massage establishments engaged in massage for compensation shall be licensed by the massage licensure board.

(b) Any person or establishment who advertises or engages in massage for compensation without a current valid license from the massage licensure board commits a Class B misdemeanor. It is unlawful to use the word “massage” or any other term that implies massage technique or method when advertising a service by a person who is not licensed under this chapter or another chapter of state law.

(c) The practice of reflexology shall not be subject to the licensure requirements of this chapter. For the purposes of this chapter, “reflexology” means the application of specific pressures to reflex points in the hands and feet only.

History: Acts 1995, ch. 480, § 5; 2000, ch. 676, § 1; T.C.A. § 63-18-104; Acts 2005, ch. 232, § 3.

63-18-105. License requirements — Issuance.

(a) The board shall establish procedures and criteria for the issuance of licenses to persons and establishments engaged in massage for compensation.

(b) No person or establishment shall be issued a license until the applicant and each person engaged in massage at such massage establishment has provided evidence satisfactory to the board that:

(1) The applicant is eighteen (18) years of age or older;

(2) The applicant has not been convicted of the offense of prostitution or sexual misconduct;

(3) The applicant has:

(A) Successfully completed the curriculum or curricula of one (1) or more post-secondary academic institutions for massage, bodywork or somatic therapy as defined by board regulations, totaling five hundred (500) hours or more, such institutions being approved by the board pursuant to § 63-18-115, and either authorized by the Tennessee higher education commission, or its equivalent in other states, or approved, or under the governance of, the Tennessee board of regents;

(B) Received a passing score on a competency examination approved by the board;

(C)

(i) Any person who has completed a program of study as required by subdivision (b)(3)(A) in a post-secondary academic institution located in Tennessee and receives a diploma or certificate prior to September 1, 2005, shall be issued a license without completing the examination requirement of this section;

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(ii) Any person who meets the requirements of subdivision (b)(3)(C)(i) shall have until January 1, 2006, to apply for such a license;

(iii) Persons licensed under this subdivision (b)(3)(C) shall not be considered to have national certification and shall not hold themselves out to be nationally certified; and

(4) All required fees have been paid.

(c) Notwithstanding the requirements of this part, no establishment license is required for the office of a physician licensed under chapter 4, 6, or 9 of this title if a massage for compensation is provided within that office by a licensed massage therapist.

History: Acts 1995, ch. 480, § 6; 1996, ch. 1059, § 2; 1997, ch. 51, § 1; 1997, ch. 475, §§ 1, 2; 2001, ch. 251, § 1; 2003, ch. 137, § 1; T.C.A. § 63-18-205; Acts 2004, ch. 729, § 3; 2005, ch. 232, §§ 1, 4; 2006, ch. 737, § 1; 2019, ch. 357, § 1.

63-18-106. Investigation — Inspection — Revocation of license.

In order to effectuate this chapter, the board or its authorized representative is empowered to conduct an investigation of persons engaged in massage or massage establishments and to inspect the license of practitioners and establishments for compliance. The refusal of a practitioner or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue a license pursuant to this chapter.

History: Acts 1995, ch. 480, § 7; T.C.A. § 63-18-206.

63-18-107. Enjoining violation.

The board has the power and authority to enter into any court of this state having proper jurisdiction to seek an injunction against any person or massage establishment not in compliance with this chapter and is further empowered to enter into any such court to enforce this chapter in order to ensure compliance with such provisions.

History: Acts 1995, ch. 480, § 8; T.C.A. § 63-18-207.

63-18-108. Grounds for denial, revocation, or suspension of license or other discipline.

(a) The board is authorized to deny, restrict or condition any application for licensure or revoke, suspend or otherwise discipline the license of a massage therapist or an establishment, if the applicant, licensee or holder of an establishment license upon proof:

(1) Is guilty of fraud in the practice of massage or fraud or deceit in the licensee's admission to the practice of massage;

(2) Has been convicted in a court of competent jurisdiction of an offense that constitutes a felony or a misdemeanor under the laws of this state;

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- (3) Is engaged in the practice of massage under a false or assumed name or is impersonating another practitioner of a like or different name;
- (4) Abuses or is addicted to the habitual use of intoxicating liquors, drugs or stimulants to such an extent as to incapacitate such person's performance of professional duties;
- (5) Is guilty of fraudulent, false, misleading or deceptive advertising or for prescribing medicines or drugs or practicing any licensed profession without legal authority. The licensee may not diagnose or imply or advertise, in any way, services for a condition that would require a diagnosis;
- (6) Is guilty of willful negligence in the practice of massage or has been guilty of employing, allowing or permitting any unlicensed person to perform massage in such licensee's establishment;
- (7) Has violated this chapter or any substantive rule promulgated under the authority of this chapter;
- (8) Has been convicted of sexual misconduct, assignation or the solicitation or attempt thereof;
- (9) Has violated or attempted to violate, directly or indirectly, or has assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the board issued pursuant to this chapter;
- (10) Has practiced as a licensed massage therapist in an unlicensed massage establishment;
- (11) Is mentally incompetent; or
- (12) Is guilty of unethical or unprofessional conduct.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

History: Acts 1995, ch. 480, § 9; 2003, ch. 137, § 2; T.C.A. § 63-18-202; Acts 2006, ch. 737, §§ 2, 3; 2010, ch. 871, §§ 1-4; 2018, ch. 745, § 35.

63-18-109. Accusation — Hearing.

(a) Charges relative to a violation of this chapter may be presented by any person, or the board may, on its own motion, direct the chair of the board to present charges. An accusation may be filed with the chair of the board, charging any licensed massage therapist with any of the offenses enumerated in § 63-18-108.

(b) The board shall provide an applicant denied issuance of a license or a practitioner whose license is suspended, revoked or not renewed a hearing on such suspension, revocation or nonrenewal, which hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Upon a decision of the board to refuse to issue, revoke or not to renew a license, the practitioner or establishment shall be prohibited from engaging in massage until the board's decision is overturned.

History: Acts 1995, ch. 480, § 10; T.C.A. § 63-18-209.

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63-18-110. Exemptions.

(a) Any person granted an exemption under this chapter is effective only to the extent that the bona fide practice of the profession or business that is licensed, certified or registered under the laws of this state overlaps into the field comprehended by this chapter, and exemptions under this chapter are only for those activities that are performed in the course of the bona fide practice of the business or profession of the person exempted.

(b) Persons exempt under subsection (a) include, but are not limited to any branch of medicine, nursing, osteopathy, chiropractic, podiatry, and also barbers, cosmetologists, athletic trainers, physical and occupational therapists and any student of an institution described in § 63-18-105(b)(3)(A) or public school of this state; provided, that the student does not hold out as a licensed massage therapist and does not receive compensation for massage.

(c) Nothing in this chapter shall apply to massage therapists licensed in other states or countries or meeting standards set forward in § 63-18-105 when providing educational programs or services for a period of time not to exceed thirty (30) days within a calendar year.

History: Acts 1995, ch. 480, § 11; T.C.A. § 63-18-210; Acts 2005, ch. 232, § 2.

63-18-111. Authorization to promulgate rules, regulations and fees.

(a) The board is hereby authorized to promulgate, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, such rules and regulations as are necessary to implement this chapter.

(b) The board may adopt reasonable rules and regulations regarding personal cleanliness of massage therapists and the sanitary condition of towels, linens, creams, lotions, oils and other materials, facilities and equipment used in the practice of massage.

(c) All fees for licensure, renewal of licensure and all other related matters shall be set by the board.

(d) All education and other requirements for licensure in this chapter shall be set by the board.

(e) The board may adopt rules and regulations for ethics.

(f) All continuing education and other requirements for renewal of licensure not enumerated in this chapter shall be set by the board.

(g) The board is authorized to set an application fee for all continuing education courses submitted to the board for approval.

History: Acts 1995, ch. 480, § 12; 1996, ch. 1059, § 3; T.C.A. § 63-18-211; Acts 2008, ch. 801, § 3.

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63-18-112. Reciprocity — Temporary license.

(a) The board may, at its discretion, grant licensure to any person who is licensed or registered in another state or country with standards as stringent as those required by this chapter.

(b)

(1) The board may, in its discretion, grant a temporary license to a person who has been licensed, registered, or certified, in good standing, in another state, territory of the United States, or the District of Columbia, that meets all other requirements for reciprocity under this chapter and rules promulgated pursuant to this chapter, but which does not require successful passage of a competency examination approved by the board.

(2) A person granted a temporary license pursuant to this section may work if the person is at all times working under the supervision of a person licensed pursuant to § 63-18-105.

(3) To obtain licensure through reciprocity, a person granted a temporary license pursuant to this section must:

(A) Successfully complete a competency exam approved by the board;

(B) Submit verification of successful completion of the competency exam to the board within six (6) months of the date of issuance of the temporary license; and

(C) Complete or satisfy all other requirements under this chapter and the rules promulgated pursuant to this chapter.

(4)

(A) A temporary license issued pursuant to this section expires six (6) months after the date of issuance.

(B) A person granted a temporary license pursuant to this section may apply for one (1) extension of the person's temporary license for an additional six (6) months if:

(i)

(a) The person has been unable to take a competency exam approved by the board within the initial temporary license period; and

(b) Is registered to take an upcoming competency exam approved by the board; or

(ii) The person is still waiting for the results of the most recent competency exam approved by the board.

History: Acts 1995, ch. 480, § 13; T.C.A. § 63-18-212; Acts 2022, ch. 774, § 1.

63-18-113. Tax.

Notwithstanding law to the contrary, the act of a duly licensed massage therapist in performing a massage shall be deemed to be medically therapeutic in nature and shall not be subject to the collection of any form of state or local taxation regulations not also imposed on other medically therapeutic activities. Additionally, a massage performed on or before October 1, 1995, by a person who becomes licensed in accordance with this chapter shall also not be subject to the collection of any form of state or local tax not also imposed on other medically therapeutic activities.

History: Acts 1995, ch. 480, § 14; 1996, ch. 1059, § 4; T.C.A. § 63-18-213.

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63-18-114. Massage therapists are not primary care providers.

No person licensed by the massage licensure board shall ever be referred to as a primary care provider nor be permitted to use such designation.

History: Acts 1995, ch. 480, § 15; T.C.A. § 63-18-214.

63-18-115. Powers and duties of the board.

In addition to the powers and duties granted to or imposed upon it by other provisions of this chapter, the board shall have the following powers and duties:

- (1) Prescribe the minimum curricular and minimum standards for schools of massage therapy and for courses of training that prepare individuals for licensure under this chapter;
- (2) Approve such schools and courses as meet the requirements of this chapter and the rules and regulations of the board;
- (3) Issue certificates of approval to such schools and courses that meet the requirements of this chapter and the rules and regulations of the board;
- (4) Conduct hearings for disciplinary action against schools or courses that fail to meet the minimum requirements of this chapter and the rules and regulations of the board; and
- (5) Annually publish passage rates for each school of massage therapy, based upon the results of each student's success in taking a national examination approved by the board. Schools that fail to achieve an overall passing rate of seventy percent (70%) shall be required to submit a remedial plan to be approved by the board.

History: Acts 2004, ch. 729, § 1; 2005, ch. 232, § 5.

63-18-116. Authority to issue license — Qualifications — Rules and regulations.

- (a) The board is authorized to issue a license to practice massage therapy to an applicant who:
 - (1) Meets the qualifications set forth in § 63-18-105(b)(1) and (2); and
 - (2) Has been certified by the National Certification Board for Therapeutic Massage and Bodywork for the five-year period immediately preceding application for licensure and can submit documentation satisfactory to the board that the applicant has engaged in the practice of massage therapy in another state for the five-year period immediately preceding application for licensure, and who either:
 - (A) Has met the qualifications set forth in § 63-18-105(b)(3), but is unable, because the educational institution either was not state approved or is no longer in existence, to produce a transcript to document compliance; or

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(B) Graduated from a qualified massage school or course prior to October 1, 1995.

(b) The board is authorized to promulgate rules that are necessary to effectuate this section.

History: Acts 2006, ch. 737, § 4.

Appendix 2

Rules and Regulations

Tennessee Code, Title 63, Chapter 18

**RULES
OF
TENNESSEE MASSAGE LICENSURE BOARD**

**CHAPTER 0870-01
GENERAL RULES GOVERNING LICENSED MASSAGE THERAPISTS AND ESTABLISHMENTS**

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0870-01-.10	Licensure Renewal		Professional and Ethical Standards for Therapists and Establishments

0870-01-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Applicant - Any individual seeking licensure who has submitted an official application and paid the application fee.
- (2) Application - The application form approved by the Board and the required attachments.
- (3) Board - The Tennessee Massage Licensure Board.
- (4) Board Administrative Office - The office of the administrator assigned to the Board.
- (5) Board's Consultant - Any person who has received a delegation of authority from the Board to perform Board functions subject to review and ratification by the Board where provided by these rules.
- (6) Client - Any person with whom the massage therapist has an agreement to provide massage therapy.
- (7) Continuing Education – Those pre-planned/formalized activities with written learning objectives that are directed at developing and enhancing an individual's massage therapy knowledge base or relevant skills.
- (8) Department - Tennessee Department of Health.
- (9) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Board receives administrative support.
- (10) Establishment – A business or institution that is a fixed and permanent location or a mobile vehicle facility that is open and accessible to the general public for compensated massage services.
- (11) FSMTB – The Federation of State Massage Therapy Boards.

(Rule 0870-01-.01, continued)

- (12) Licensee - Any person holding a license to practice massage therapy or to operate a massage establishment in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
- (13) Massage/bodywork/somatic – The manipulation of the soft tissues of the body with the intention of positively affecting the health and well-being of the client.
- (14) MBLEx – The Massage and Bodyworks Licensing Examination established by the FSMTB
- (15) NCBTMB - The National Certification Board for Therapeutic Massage and Bodywork.
- (16) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (17) Physician - Any physician licensed pursuant to T.C.A. Title 63, Chapter 6 or 9.
- (18) Responsible person – The individual listed on a massage establishment's licensure application form, who has agreed to be held accountable to the Board for the establishment's compliance with all state statutes and regulations governing massage therapy, among other things.
- (19) Sexual Activity – "Sexual activity" means any direct or indirect physical contact or communication 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 but is not limited to, sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse. "Sexual activity" can involve the use of any device or object or conversation and is not dependent on whether penetration, orgasm or ejaculation occurred. As used in these rules, "masturbation" means the manipulation of any body tissue with the intent to cause sexual arousal.

Authority: T.C.A. §§ 63-18-102, 63-18-104, 63-18-105, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed November 26, 1996; effective February 9, 1997. Amendment filed November 12, 1999; effective January 26, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

0870-01-.02 STANDARDS AND REQUIREMENTS FOR DRAPING; PROHIBITION OF SEXUAL ACTIVITY; PROHIBITED TREATMENTS.

- (1) Proper draping technique is of the utmost importance when performing massage therapy to ensure the comfort and safety of the therapist and the client. At all times massage therapists must provide draping and treatment in a way that ensures the safety, comfort and privacy of the client.
- (2) Before beginning a massage, the therapist must explain to the client the draping techniques that will be used and provide the client a clean drape large enough for the purpose of draping the buttocks and genitalia and, in the case of female clients, the breasts. Such body parts must remain covered except during therapeutic treatment of those specific areas, with the exception of the genitalia, which shall always remain covered.

(Rule 0870-01-.02, continued)

- (3) Sexual conduct, sexual activity, or sexualizing behavior involving a client is strictly prohibited at all times. A massage therapist may not initiate, arrange for, or engage in such activities, including if the client attempts to sexualize the relationship.
- (4) Massage therapists must refrain, under all circumstances, from providing the following treatments, which are prohibited and not within the scope of practice for massage therapists:
 - (a) Treatments to the anus or anal canal, including, but not limited to, colonic irrigations and enemas;
 - (b) Cross-gender breast massage;
 - (c) Treatments to the genitals.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111. **Administrative History:** New rule filed May 19, 2017; effective August 17, 2017.

0870-01-.03 PRACTICE STANDARDS AND INSPECTION OF ESTABLISHMENTS.

- (1) It is the responsibility of establishment owners and responsible persons to ensure compliance with all provisions of these rules and any violation of these rules may result in disciplinary action or denial of licensure pursuant to T.C.A. § 63-18-108.
- (2) Standards for Massage Establishments, Personnel, and Equipment
 - (a) Massage Establishments Standards
 1. Establishment owners and responsible persons shall ensure and maintain an adequate waiting area for clients.
 2. Establishment owners and responsible persons shall maintain properly installed smoke detectors and fire extinguishers in compliance with local fire codes. If there are no local fire codes, there shall be a minimum of one smoke detector and one fire extinguisher per one thousand (1000) square feet of establishment area. If local fire codes require fire inspections, establishment owners and responsible persons shall maintain written documentation of all fire inspections for a period of four (4) years.
 3. Massage therapy may be conducted only in rooms which are adequately lighted and ventilated, and so constructed that they can be kept clean. Establishment owners and responsible persons shall ensure that floors, walls, ceilings and windows are kept clean, in good repair and free of pests.
 4. Rest Rooms. Every establishment shall contain rest room facilities for use by clients and employees. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such centralized facilities shall be within three hundred (300) feet of the massage establishment.
 - (i) Rest room facilities shall include at least one water-flushed toilet, equipped with toilet tissue, from which the waste water shall be discharged into a sewage system acceptable to the Department of Environment and Conservation.

(Rule 0870-01-.03, continued)

- (ii) Rest room facilities shall include at least one sink with hot and cold running water and shall be equipped with a soap dispenser with soap or other hand cleaning materials, clean towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle. Hand cleansing capabilities for the therapists must be located within twenty (20) feet of the treatment area.
 - (iii) Rest room facilities and all of the foregoing fixtures and components shall be kept clean, in good repair and free of pests.
 - 5. Reasonable effort for sanitation shall be maintained for temporary locations such as athletic events or public service fund raisers in temporary venues.
 - 6. Establishment owners and responsible persons shall 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 and hazardous materials.
- (b) Personnel
- 1. Establishment owners and responsible persons are responsible for ensuring that all persons who perform massage therapy in a massage establishment maintain current licensure by the Board pursuant to rule 0870-01-.05.
 - 2. Establishment owners and responsible persons shall maintain in a centralized location at the establishment a current copy of the certificate of renewal for each licensed massage therapist providing services at the establishment. A copy of any such certificate shall be made available upon request of any client or any representative of the Board.
 - 3. Establishment licenses are not transferable and are subject to revocation or other disciplinary actions upon failure of any inspection or for refusal to allow inspection by the Board's authorized representatives.
 - 4. Establishment owners and responsible persons shall be responsible for maintaining all parts thereof in a sanitary condition at all times, and for otherwise ensuring that such establishment is operated in compliance with this Chapter. However, this rule shall not relieve any individual therapist of responsibility for the sanitary conditions of the space or equipment used in their practice.
 - 5. Establishment owners and responsible persons shall maintain a list of the individuals who have provided massage therapy at the establishment during the preceding two years. This list shall be promptly furnished on request by a Board investigator or other representative of the Board.
- (c) Equipment
- 1. Establishment owners and responsible persons shall ensure that all equipment and supplies used to perform massage services on the premises are maintained in a safe and sanitary condition.
 - 2. If the establishment is equipped with a whirlpool bath, sauna, steam cabinet and/or steam room, establishment owners shall maintain adequate and clean shower facilities on the premises.

(Rule 0870-01-.03, continued)

- (3) Inspection of Establishments - Licensed massage therapy establishments are subject to initial inspections and periodic subsequent inspections by the Board or its authorized representative(s) during normal and customary business hours. Inspections may be announced or unannounced.
- (a) The purpose of inspection of establishments is to verify compliance with the establishment standards of this rule and to verify that the establishment and all licensed massage therapists providing services have their licenses conspicuously displayed on the premises as required by 0870-01-.14.
 - (b) The establishment license may be subject to disciplinary action, pursuant to Rule 0870-01-.13, if the inspection reveals that the establishment does not meet the standards and requirements set by this rule or if the inspection reveals that the license of any massage therapist providing services at the establishment is not current or has been suspended or revoked.
 - (c) A massage establishment which does not pass its inspection may be subject to discipline or reinspection.
 - (d) Reinspection - When an establishment does not pass inspection, the establishment shall submit an application for reinspection.
 - 1. The inspector shall provide the establishment with an application for reinspection.
 - 2. The application shall be submitted to the Board's administrative office within thirty (30) days after the failed inspection.
 - 3. The reinspection fee shall be submitted with the application, pursuant to Rule 0870-01-.07.
 - 4. Failure to submit an application for reinspection or reinspection fee, or failure to pass a reinspection, may result in disciplinary action.
 - (e) Failure to Allow or Appear for Inspection - An establishment whose owner or responsible person refuses to allow an inspection without good cause shall be deemed to have failed the inspection, and the establishment shall comply with the reinspection rule.

Authority: T.C.A. §§ 63-18-104, 63-18-105, 63-18-106, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed November 26, 1996; effective February 9, 1997. Amendment filed August 10, 1999; effective October 24, 1999. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed November 27, 2000; effective February 10, 2001. Amendment filed October 4, 2004; effective December 18, 2004. Amendment filed December 29, 2004; effective March 14, 2005. Amendments filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.02 but was renumbered 0870-01-.03 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.04 NECESSITY OF LICENSURE.

- (1) Massage therapy is one of the healing arts and, as such, the practice is restricted to those persons issued a credential by this Board. Persons engaging in the practice of

(Rule 0870-01-.04, continued)

massage therapy without being licensed or expressly exempted by the laws are in violation of T.C.A. §§ 63-1-123 and 63-18-104. It is unlawful for any person who is not licensed in the manner prescribed in Title 63, Chapter 18 of the Tennessee Code Annotated to present himself or his establishment as a licensed massage therapist or a licensed massage establishment or to hold himself or his establishment out to the public as being licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification. Students may not hold themselves out as licensed massage therapists until such time as they are licensed.

- (2) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the titles "Massage Therapist (M.T.);" or "Licensed Massage Therapist (L.M.T.);" and to practice as a massage therapist, as defined in T.C.A. § 63-18-102. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every advertisement he or she publishes. Failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the massage therapist to disciplinary action pursuant to T.C.A. §§ 63-18-104(b) and 63-18-108(5), and rule 0870-01-.19(1)(m).

Authority: T.C.A. §§ 63-1-123, 63-1-145, 63-1-146, 63-18-102, 63-18-104, 63-18-105, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed April 30, 2008; effective July 14, 2008. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.03 but was renumbered 0870-01-.04 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.05 LICENSURE PROCESS.

- (1) To practice massage therapy in Tennessee a person must possess a lawfully issued license from the Board. The process for obtaining a license is as follows:
 - (a) An application packet shall be requested from the Board's Administrative Office.
 - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form. The applicant shall submit the application along with all required documentation and fees to the Board Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed as close to simultaneously as possible.
 - (c) Applications will be accepted throughout the year. Supporting documentation required by these rules must be timely received in the Board Administrative Office as provided in rule 0870-01-.08(3) or the file will be closed.
 - (d) An applicant shall submit a copy of his/her birth certificate or its equivalent which indicates that the applicant is, at the time of application, at least eighteen (18) years of age. Applicants who are not citizens of the United States or whose birth certificates reflect that they were not born in the United States shall submit proof of their immigration status demonstrating their right to live and work in the United States.

(Rule 0870-01-.05, continued)

- (e) Applicants shall request that a transcript from one (1) or more post secondary academic institution(s) approved by the Tennessee Higher Education Commission or its equivalent in another state(s), or approved by the Tennessee Board of Regents and approved by the Tennessee Massage Licensure Board, be submitted directly from the institution(s) to the Board Administrative Office. The transcript must carry the official seal of the institution(s) and must show that the applicant has successfully completed a massage, bodywork, and/or somatic therapy curriculum(s) consisting of no less than five hundred (500) classroom hours, specifically delineated as follows:
 - 1. Two hundred (200) classroom hours of the five hundred (500) classroom hour requirement shall consist of sciences including, but not limited to, anatomy, physiology-Western and/or/Eastern, kinesiology, pathology, HIV/AIDS and blood-borne pathogens, and hygiene (including standard precautions). Other sciences related to the human body may be included with Board approval.
 - 2. Two hundred (200) classroom hours of the five hundred classroom (500) hour requirement shall consist of basic massage theory and practice including, but not limited to, history, benefits, indications, contraindications, demonstration and supervised practice, client assessment/evaluation, soft tissue manipulations including: gliding, kneading, friction, compression, vibration, percussion, stretching, joint movements, draping, positioning, turning, feedback, charting/documentation, proper body mechanics, and self-care.
 - 3. Eighty-five (85) classroom hours of the five hundred (500) classroom hour requirement shall consist of related subjects including, but not limited to, business standards of practice, communication skills, CPR/First Aid, the Americans with Disabilities Act, referral methods, specialized populations, and specialized and adjunct therapies/modalities (including hydrotherapy).
 - 4. Ten (10) classroom hours of the five hundred (500) classroom hour requirement shall consist of ethics instruction.
 - 5. Five (5) classroom hours of the five hundred (500) classroom hour requirement shall consist of instruction regarding Tennessee massage statutes and regulations.
- (f) Applicants shall request that verification of having successfully completed an examination, as provided in Rule 0870-01-.09, be submitted directly from the examining agency or its successor organization to the Board Administrative Office.
- (g) Applicants shall submit evidence of good moral character. Such evidence shall consist of two (2) recent (within the preceding 12 months) original signed and dated letters from health care professionals that include the professional's licensing credentials and attest to the applicant's personal character and professional ethics. The letters should be drafted on the writer's professional letterhead and include the writer's contact information.
- (h) Applicants shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal offense (except minor traffic offenses) of any country, state or municipality, including without limitation, conviction for prostitution or any sexual misconduct offense. A conviction for prostitution or sexual misconduct offenses shall disqualify an applicant from receiving a license. A conviction for a felony under the laws of Tennessee may disqualify an applicant from receiving a license.

(Rule 0870-01-.05, continued)

2. The denial of professional licensure/certification by any other state or the discipline of licensure/certification in any state.
 3. Loss or restriction of licensure/certification.
 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant in any actions involving malpractice, negligence and/or fraud.
 5. Failure of any professional licensure or certification examination.
- (i) Applicants shall cause to be submitted to the Board Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (j) If an applicant holds or has ever held a license/certificate to practice any profession in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each such licensing board which indicates the applicant holds or held an active license/certificate and whether it is presently in good standing or was in good standing at the time it became inactive.
- (k) An applicant shall submit the application fee and state regulatory fee as provided in rule 0870-01-.07.
- (l) When necessary, all required documents shall be translated into English and such translation and original documents certified as to authenticity by the issuing source. Both versions must be submitted.
- (m) Reciprocity Licensure
1. Applicants who are licensed or have been licensed in another state and are seeking reciprocity licensure in Tennessee may do so in one of two ways:
 - (i) An applicant may request that one or more transcripts compliant with Rule 0870-01-.05(1)(e)1-4 and verification of having successfully completed an approved competency examination as provided in 0870-01-.09 be submitted directly to the Board Administrative Office; or
 - (ii) An applicant can avoid the educational requirements of rule 0870-01-.05(1)(e)1-4 if they qualify under the terms of Tennessee Code Annotated § 63-18-116. Such applicants must request that proof from the NCBTMB of their certification for the five (5) year period immediately preceding application for licensure be submitted directly to the Board Administrative Office and must submit documentation satisfactory to the Board that they have engaged in the practice of massage therapy in another state for the five (5) year period immediately preceding application for licensure.
 2. All applicants for reciprocity licensure must submit proof of having successfully completed five (5) classroom hours of instruction regarding Tennessee massage statutes and regulations and must have had at least ten (10) classroom hours of ethics instruction, as required in rule 0870-01-.05(1)(e)4. and 5. These hours shall not be self-directed.

(Rule 0870-01-.05, continued)

- (2) All applications shall be sworn to and signed by the applicant and notarized. All applications and documents submitted for licensure purposes become the property of the State of Tennessee and will not be returned. Neither the application form nor any required document will be accepted if any portion has been executed and dated prior to one (1) year before receipt by the Board Administrative Office.
- (3) Application review and all licensure decisions shall be governed by Rule 0870-01-.08.
- (4) Applicants who graduated from schools that are no longer in operation may be asked to submit additional documentary evidence of their education.

Authority: T.C.A. §§ 63-1-104, 63-18-104, 63-18-105, 63-18-108, 63-18-111, 63-18-112, and 63-18-116.

Administrative History: Original rule filed March 25, 1996; effective June 8, 1996. Repeal and new rule filed November 13, 1996; effective January 27, 1997. Amendment filed August 21, 1998; effective November 4, 1998. Amendment filed August 10, 1999; effective October 24, 1999. Amendment filed November 12, 1999; effective January 26, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed October 4, 2004; effective December 18, 2004. Amendments filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed May 10, 2007; effective July 24, 2007. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.04 but was renumbered 0870-01-.05 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.06 ESTABLISHMENT LICENSURE PROCESS. Any massage therapy establishment, unless exempted by any provision of T.C.A. § 63-18-110, must be licensed by the Board. The process for obtaining a license is as follows:

- (1) An applicant shall respond truthfully and completely to every question or request for information contained in the application form. The applicant shall submit the application along with all required documentation and fees to the Board Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed as close to simultaneously as possible.
- (2) An applicant/responsible person need not be licensed as a massage therapist. However, all persons who provide massage therapy on the premises must be licensed pursuant to rule 0870-01-.05. Failure to comply with this provision may result in the denial or revocation of the establishment license.
- (3) Except for applicants who are corporations doing business in Tennessee, every applicant shall submit a copy of his/her birth certificate or its equivalent which indicates that the applicant is at least eighteen (18) years of age at the time of application. Applicants who are not citizens of the United States or whose birth certificates reflect that they were not born in the United States shall submit proof of their immigration status demonstrating their right to live and work in the United States.
- (4) Except for applicants who are corporations doing business in Tennessee, every applicant shall submit to the Board Administrative Office, evidence of good moral character. Such evidence shall consist of two (2) recent (within the preceding 12 months) original signed and dated letters, attesting to the applicant's personal character and professional ethics.

(Rule 0870-01-.06, continued)

- (5) Applicants who are not licensed as massage therapists in Tennessee shall submit proof that they have completed at least two (2) hours of education in Tennessee Law relating to massage therapy. These courses must be approved by the Board.
- (6) Applicants who are corporations doing business in Tennessee shall submit a copy of their corporate charter and shall submit a statement identifying the corporation's registered agent for service of process.
- (7) An applicant shall disclose the circumstances surrounding any of the following concerning himself:
 - (a) Conviction of any criminal offense (except minor traffic offenses) of any country, state or municipality, including without limitation conviction for prostitution or any sexual misconduct offense. A conviction for prostitution or sexual misconduct offenses shall disqualify an applicant from receiving a license. A conviction for a felony under the laws of Tennessee may disqualify an applicant from receiving a license.
 - (b) The denial of professional licensure/certification by any other state or the discipline of licensure/ certification in any state.
 - (c) Loss or restriction of licensure/certification.
 - (d) Any civil suit judgment or civil suit settlement in which the applicant was a party defendant for any actions involving malpractice, negligence, and/or fraud.
- (8) An applicant shall cause to be submitted to the Board Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (9) An applicant shall submit the establishment application fee and state regulatory fee as provided in rule 0870-01-.07.
- (10) When necessary, all required documents shall be translated into English and such translation and original documents certified as to authenticity by the issuing source. Both versions must be submitted to the Board's administrator.
- (11) All applications shall be sworn to and signed by the applicant and notarized.
- (12) All documents submitted for licensure purposes become the property of the State of Tennessee and will not be returned.
- (13) The application form and all required documents must be dated no more than one (1) year before receipt by the Board Administrative Office.
- (14) An establishment license may be denied, conditioned, restricted and/or disciplined for the same causes and pursuant to the same procedures as a massage therapist's license.
- (15) An establishment that wishes to change its responsible person must submit a new application and comply with rule 0870-01-.06(1), (2), (3), (5), (7), (8), (10), (11), and (13). An establishment application fee, a new initial license fee, and regulatory fee shall not be collected.
- (16) An establishment wishing to change its address must apply for an establishment license for the new address, however, the only fee that shall be collected by the Board is the reinspection fee set forth in Rule 0870-01-.07.

(Rule 0870-01-.06, continued)

- (17) Application review and licensure decisions shall be governed by rule 0870-01-.08.

Authority: T.C.A. §§ 63-1-104, 63-18-104, 63-18-105, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed November 26, 1996; effective February 9, 1997. Amendment filed November 12, 1999; effective January 26, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed December 29, 2004; effective March 14, 2005. Amendments filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed February 2, 2007; effective April 18, 2007. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.05 but was renumbered 0870-01-.06 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.07 FEES.

- (1) The fees authorized to be established by the Board and necessary to the operation of the Board are established as follows:
- (a) Individual Application Fee - A non-refundable fee to be paid by all applicants for a massage therapist's license including those seeking licensure by reciprocity. This fee includes an initial licensure fee and the state regulatory fee. In cases where an applicant is denied licensure or the application file closes due to abandonment, only the initial licensure fee will be refundable upon request. The state regulatory fee is not refundable.
 - (b) Establishment Application Fee - A non-refundable fee to be paid by all applicants who wish to license a massage establishment. This fee includes an initial licensure fee and the state regulatory fee. In cases where an applicant is denied licensure or the application file closes due to abandonment, only the initial licensure fee will be refundable upon request. The state regulatory fee is not refundable.
 - (c) Biennial Licensure Renewal Fee - A non-refundable fee to be paid prior to the issuance of the renewal certificate. This fee must be received on or before the expiration date of the license.
 - (d) Initial License Fee - A fee to be paid at the time of application for initial licensure.
 - (e) Late Renewal Fee - A non-refundable fee to be paid when a licensee fails to renew on or before the license's expiration date. This is an additional fee which must be submitted with the biennial licensure renewal fee and state regulatory fee.
 - (f) Replacement License Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" wall license or renewal certificate, or when a licensed massage establishment requests a change of name and/or address, pursuant to rule 0870-01-.15 (3).
 - (g) State Regulatory Fee - A non-refundable fee to be paid by all individuals at the time of application and with all renewal applications.
 - (h) A reinspection fee is a nonrefundable fee to be paid by an establishment when an establishment does not pass inspection, fails to schedule an inspection, does not

(Rule 0870-01-.07, continued)

appear for a scheduled inspection, or moves to a new location requiring an inspection of the new establishment.

- (i) A continuing education course approval fee is a nonrefundable fee to be paid by a continuing education course provider upon the submission of a continuing education curriculum to be approved by the Board each continuing education cycle.

(2) Fee Schedule:	Amount
(a) Individual application fees shall include the following:	
1. Application fee	\$85.00
2. Initial licensure fee	\$185.00
3. State regulatory fee	\$10.00
Total application fees due upon submission of an application.....	\$280.00
(b) Establishment application fees shall include the following:	
1. Application fee	\$95.00
2. Initial licensure fee	\$120.00
3. State regulatory fee	\$10.00
Total application fees due upon submission of an application	\$225.00
(c) Individual biennial licensure renewal fee	\$185.00
(d) Establishment biennial licensure renewal fee	\$135.00
(e) Late Renewal Fee.....	\$100.00
(f) Replacement License Fee	\$25.00
(g) State Regulatory (biennial)	\$10.00
(h) Reinspection fee	\$110.00
(i) Continuing education course approval fee	\$100.00 (per course)

- (3) Fees may be paid in the following manner:
 - (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board’s Administrative Office and made payable to the Tennessee Massage Licensure Board.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-107, 63-1-108, 63-1-112, 63-18-104, 63-18-105, 63-18-106, and 63-18-111. **Administrative History:** Original rule filed March 25, 1996;

(Rule 0870-01-.07, continued)

effective June 8, 1996. Repeal and new rule filed November 13, 1996; effective January 27, 1997. Amendment filed August 10, 1999; effective October 24, 1999. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed November 14, 2000; effective January 29, 2001. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed December 29, 2004; effective March 14, 2005. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed April 9, 2009, effective June 23, 2009. Amendments filed April 9, 2009; effective June 23, 2009. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.06 but was renumbered 0870-01-.07 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.08 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Completed applications received in the Board Administrative Office may be reviewed by any member of the Board, the Board's consultant, or designee for initial determination. An initial determination as to acceptance or denial of the application shall be made prior to the end of the month in which the application is received. Each member of the Board and the Board's consultant or designee is vested with the authority to make these initial determinations.
- (2) A temporary authorization may be issued pursuant to the initial approval determination made by the Board member or the Board's consultant or designee reviewing the application. However, such determination shall not become fully effective until such time as the full Board ratifies it.
- (3) If an application is incomplete when received by the Board Administrative Office, or the reviewing Board member or the Board's consultant or designee determines additional information is required from an applicant before an initial determination can be made, the Board Administrative Office shall notify the applicant of the information required. The applicant shall cause the requested information to be received by the Board Administrative office on or before the sixty-fifth (65th) day after the date of notification.
 - (a) If the information is not received in a timely manner, then no further action shall take place until a new application is received pursuant to the rules governing the licensure process.
- (4) In order for an application to be scheduled for review by the Board at a board meeting, all required documentation must be completed and submitted to the Board's Administrative Office at least fifteen (15) days prior to the board meeting.
- (5) If a completed application is denied by the Board, the applicant shall be informed of that decision and the following shall occur:
 - (a) A notification of the denial shall be sent to the applicant by the Board Administrative Office by certified mail return receipt requested which shall contain the reasons for the denial and the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-101, et seq.) to contest the denial and the procedures necessary to accomplish that action.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria and only if the request for a contested case hearing is made in writing within thirty (30) days of the receipt of the denial notification.

(Rule 0870-01-.08, continued)

2. An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's Administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal.
- (6) Any applicant who has successfully complied with all requirements of the rules governing the licensure process shall be entitled to its issuance with the following exceptions:
 - (a) Applicants who by virtue of any criteria in the area of mental, physical, moral or educational capabilities, as contained in the application and review process, which indicates a potential risk to the public health, safety and welfare may be required to present themselves to the Board or selected member(s) of the Board for an interview before final approval may be granted.
 - (b) The issuance of the license applied for may be withheld, restricted or conditioned for violation of the provisions of T.C.A. § 63-18-108 and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.
 - (7) If the Board finds it has erred in the issuance of any type of license, the Board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 0870-01-.08(5)(b).

Authority: T.C.A. §§ 4-5-102, 63-1-142, 63-18-104, 63-18-105, 63-18-108, 63-18-109, 63-18-111, and 63-18-112. **Administrative History:** Original rule filed November 13, 1996, effective January 27, 1997. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed May 10, 2007; effective July 24, 2007. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.07 but was renumbered 0870-01-.08 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.09 EXAMINATION.

- (1) With the exception of applicants qualifying pursuant to Rule 0870-01-.05(1)(m)1.(ii) or Rule 0870-01-.06, all persons intending to apply for licensure must successfully complete one (1) of the competency examinations adopted by the Board pursuant to this Rule as a prerequisite to licensure. Such examinations must be completed prior to application for licensure. Evidence of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in Rule 0870-01-.05.
- (2) Competency Examination - The Board accepts successful completion, as determined by the examining agency, of any one (1) of the following examinations:
 - (a) The MBLEx and/or its successor examination. The exam application, any other required documents, and fees necessary to take the exam must be sent to the FSMTB, not to the Board.

(Rule 0870-01-.09, continued)

- (b) Any other Board-approved examination - Application for, proof of having successfully completed a massage, bodywork, and/or somatic therapy curriculum(s) as provided in subparagraph 0870-01-.05(1)(e), and fees necessary to take a Board-approved examination must be sent to such exam's testing agency and not to the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-104, 63-18-105, 63-18-111, 63-18-112, and 63-18-116.

Administrative History: Original rule filed April 17, 2003; effective July 1, 2003. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed May 10, 2007; effective July 24, 2007. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay on July 2, 2012; new effective date September 6, 2012. On August 20, 2012, the Massage Licensure Board withdrew its amendment to 0870-01-.08. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.08 but was renumbered 0870-01-.09 with the addition of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.10 LICENSURE RENEWAL. All licensed massage therapists and massage establishments must biennially renew their licenses to be able to legally continue in practice. Licensure renewal is governed by the following:

- (1) Renewal application
 - (a) The due date for license renewal is set by the Division's biennial alternative interval renewal system. The due date is contained on the renewal document as the expiration date.
 - (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The internet renewal method is not available to establishments.
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
 - (c) To be eligible for renewal a licensee must submit to the Division, on or before the expiration date, all of the following:
 - 1. A completed and signed renewal application form; and
 - 2. The renewal and state regulatory fees as provided in rule 0870-01-.07.
 - 3. For establishment licenses, a list of the massage therapists currently working at that location
 - (d) Licenses which are not renewed within sixty (60) days of the expiration of the license shall be administratively revoked, without further notice or opportunity for hearing as provided in T.C.A. § 63-1-107(c). Reinstatement may be sought pursuant to paragraph (2) of this rule.
 - (e) Anyone submitting a signed renewal form or letter which is found to be untrue is subject to disciplinary action pursuant to T.C.A. § 63-18-108.

(Rule 0870-01-.10, continued)

- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired may be allowed, at the discretion of the Board, upon meeting the following conditions:
 - (a) Submission of a statement setting forth the cause for failure to renew; and
 - (b) Payment of the late renewal fee and all past due renewal fees that accrued while the license was in an expired/ administratively revoked status; and
 - (c) Submission of proof of compliance with the continuing education requirements of rule 0870-01-.12; and
 - (d) For establishment licenses, a list of the massage therapists that will be working at that location.
- (3) Renewal issuance decisions pursuant to this rule may be made administratively, or upon review by the Board or the Board's consultant.
- (4) No application for renewal of an establishment license or reinstatement of an expired establishment license shall be considered unless the establishment has passed its most recent inspection.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-18-104, 63-18-106, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.09 but was renumbered 0870-01-.10 with the addition of a new rule 0870-01-.02 and the deletion of rule 0870-01-.10 filed May 19, 2017; effective August 17, 2017.

0870-01-.11 RETIREMENT, REINSTATEMENT, INACTIVATION, AND REACTIVATION OF LICENSURE.

- (1) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process and continuing education requirements by doing the following:
 - (a) Obtain from, complete and submit to the Board Administrative Office an affidavit of retirement form.
 - (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (2) Any licensee whose individual license has been retired may reenter active practice by doing the following:
 - (a) Submit a reinstatement application to the Board Administrative Office; and
 - (b) Pay the licensure renewal fee and state regulatory fee as provided in rule 0870-01-.07.
 - (c) In the event of licensure retirement or inactivation in excess of two (2) years, appear before the Board for an interview regarding continued competence if requested.

(Rule 0870-01-.11, continued)

- (d) Comply with the continuing education provisions of rule 0870-01-.12 applicable to reactivation of retired licenses.
- (3) Establishments that wish to retain their licenses but not operate as an establishment may avoid compliance with the licensure renewal process requirements by doing the following:
 - (a) Obtain from, complete and submit to the Board Administrative Office a request for establishment inactivation form.
 - (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (4) Any establishment whose license has been placed in inactive status may activate such license by doing the following:
 - (a) Submit a reactivation application to the Board Administrative Office; and
 - (b) Pay the establishment biennial licensure renewal fee and state regulatory fee as provided in rule 0870-01-.07, and
 - (c) No application for reactivation of an establishment license shall be considered unless the establishment has passed its most recent inspection.
- (5) Application review and decisions required by this rule shall be governed by rule 0870-01-.08.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-111, 63-18-104, 63-18-106, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed October 4, 2004; effective December 18, 2004. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

0870-01-.12 CONTINUING EDUCATION.

- (1) All massage therapist licensees must complete twenty four (24) hours of continuing education every two (2) calendar years, as a prerequisite to licensure renewal. The first two year cycle for continuing education ran from January 1, 2003 to December 31, 2004 and shall continue on two year cycles thereafter.
 - (a) Continuing education credit shall only be awarded for those courses which are approved by the Board pursuant to paragraph (5) of this Rule. The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once toward the twenty-four (24) hour requirement of any two-year cycle, regardless of the number of times the course is attended or completed by any licensee.
 - (b) Two (2) of the twenty-four (24) hours requirement shall pertain to Tennessee statutes and rules concerning massage therapists and establishments. The two (2) hour courses must be approved by the Board.
 - (c) Two (2) of the twenty-four (24) hours requirement shall pertain to the management of practicing massage therapy, professional ethics or substance abuse.

(Rule 0870-01-.12, continued)

- (d) A maximum of eight (8) of the twenty-four (24) hours requirement may be completed in any of the following multi-media formats:
 - 1. The internet;
 - 2. Closed circuit television;
 - 3. Satellite broadcasts;
 - 4. Correspondence courses;
 - 5. Videotapes;
 - 6. CD-ROM;
 - 7. DVD;
 - 8. Teleconferencing;
 - 9. Videoconferencing; or
 - 10. Distance Learning.
 - (e) The maximum of eight (8) hours earned in multi-media formats per continuing education cycle shall apply regardless of whether the hours are earned to comply with the current cycle, as makeup hours for a prior cycle, or for any other reason.
 - (f) A licensee whose massage therapist license was retired for a portion of the two-year cycle is required to obtain a total of one (1) hour of continuing education for each month the license was active, except that the licensee must obtain at least four (4) hours: two (2) hours pertaining to Tennessee statutes and rules as specified in 0870-01-.12(1)(b) and two (2) hours pertaining to management of practicing massage therapy, professional ethics or substance abuse as specified in 0870-01-.12(1)(c).
- (2) Initial massage therapist licensees shall have their required continuing education hours pro-rated over the remaining months of the two (2) year cycle in which they become licensed according to the following chart.

First Year of the Cycle		Second Year of the Cycle	
Month Licensed	Hours Required	Month Licensed	Hours Required
January	24	January	13
February	24	February	12
March	23	March	11
April	22	April	10
May	21	May	9
June	20	June	8
July	19	July	7
August	18	August	6
September	17	September	5
October	16	October	4
November	15	November	4
December	14	December	4

(Rule 0870-01-.12, continued)

- (3) Massage establishment owners and responsible persons who are not licensed massage therapists must complete an approved two (2) hour continuing education course pertaining to Tennessee statutes and rules concerning massage therapists and establishments every two year cycle.
- (4) Continuing Education - Proof of Compliance
 - (a) Each massage therapist must, on the biennial licensure renewal form, attest to timely attendance and completion of the required continuing education hours during the preceding cycle.
 - (b) Each Massage therapist must retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of four (4) years from the end of the cycle in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process. Acceptable documentation verifying the licensee's completion of the continuing education program(s) may consist of either a certificate or an original letter on official stationery from the program's sponsor, indicating the program title, date and length in hours, along with the licensee's name and license number.
- (5) Continuing Education - Course Approval
 - (a) Providers of courses to be offered for credit toward the required continuing education hours must, unless otherwise provided, receive approval from the Board. Approval once granted, regardless of whether approval is pursuant to subparagraph (b) or (c) of this paragraph, is effective only during the continuing education cycle (as identified in paragraph (2)) during which approval was granted. Grant of approval of any course prior to January 31, 2012 will expire December 31, 2012. After that all courses/hours provided for credit toward meeting the requirements of this rule must be approved either pursuant to part (b)1. or subparagraph (c) of this paragraph in every continuing education cycle they are offered.
 - (b) The following sponsors or courses need not receive prior approval and shall constitute Board approved continuing education courses:
 1. Associations, corporations, or organizations authorized as a provider by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or the Federation of State Massage Therapy Boards (FSMTB). Provided however, any provider approved by any organization identified in this part who intends to include in their course the hours necessary to meet the requirements of subparagraph 0870-01-.12(1)(b) of this rule must nevertheless comply with all of the following before those hours can be presented:
 - (i) The provider must submit the course materials for those hours for review and approval pursuant to subparagraph (5)(c) of this rule; and
 - (ii) The course may be presented in a live lecture format or a multi-media format with successful completion of a post-examination; and
 - (iii) The provider must submit documentation sufficient to show that the information to be disseminated in those hours is accurate and current.
 2. American Heart Association course in CPR.

(Rule 0870-01-.12, continued)

3. American Massage Therapy Association.
 4. American Red Cross courses in HIV, CPR, or Standard First Aid.
 5. Massage continuing education courses offered by colleges, universities, or massage schools approved by the United States Department of Education, the Tennessee Higher Education Commission or the Tennessee Board of Regents.
 6. Formal educational courses relating directly to the theory or clinical application of massage therapy sponsored by an accredited college/university or institution approved by the Tennessee Higher Education Commission, Board of Regents or its equivalent in another state(s). If such course is taken for or assigned quarter or semester credit hours, each semester hour or equivalent quarter hour shall be equivalent to five (5) continuing education hours. No credits will be counted for courses not passed.
 7. Tennessee Massage Therapy Association.
 8. FSMTB
- (c) If a sponsor is unable to obtain or chooses not to obtain approval pursuant to subparagraph (5)(b) of this rule, the sponsor may request Board approval by submitting the following information to the Board Administrative Office at least forty five (45) days prior to the proposed or scheduled date of the course:
1. Copies of any and all materials to be utilized in the course. Sponsors may submit the ISBN number and title of materials with ISBN numbers in lieu of sending the actual materials.
 2. Resume or Vita for all instructors that details their experience or training in the subject matter they will teach. Instructors must be licensed massage therapists or demonstrate experience and training that qualifies them to provide continuing education.
 3. Written learning objectives as well as a detailed outline of the course.
 4. A copy of any student course evaluations, class roster forms, check in sheets and certificates of completion that will be provided at the course.
 5. Number of hours of educational credit requested. An hour equals fifty (50) clock minutes of instruction.
 6. A prospective approximate start date on which the sponsor intends to begin offering the course.
 7. The Board may deny a request to sponsor continuing education if it is determined the sponsor will utilize copyrighted materials without appropriate permission.
 8. The Board reserves the right to request additional information if the information provided by the sponsor is deemed inadequate or incomplete.
 9. The Board may deny a request to sponsor continuing education if any of the above information is not provided.

(Rule 0870-01-.12, continued)

- (d) Upon prior approval by the Board, individual licensees may receive continuing education credit for courses attended out of state. Prior approval is not necessary for courses already approved pursuant to .12(b) or .12(c). To obtain approval, the individual should submit the following to the Board Administrative Office:
 - 1. The written learning objectives of the course.
 - 2. A course description or outline.
 - 3. Names of all lecturers.
 - 4. Number of hours of educational credit requested.
 - 5. Date of course.
 - 6. Copies of materials to be utilized in the course, upon a Board request.
 - 7. The course provider's contact information.
 - 8. The course provider's pre-printed brochure, agenda or other materials which describe and/or advertise the course.
 - (e) Continuing Education courses may be presented in any of the following formats:
 - 1. Lecture.
 - 2. Multi-media courses - with successful completion of a written post experience examination to evaluate material retention.
 - 3. Correspondence - with successful completion of a written post experience examination to evaluate material retention.
 - 4. Any combination of the above.
 - (f) The sponsor of each continuing education program shall keep detailed records of the materials required in subparagraph (c) of this rule and a copy of the attendance record for not less than four (4) years from the date the course was approved.
 - (g) Approval of any continuing education program may be withdrawn or denied by the Board if the sponsor of such program fails to comply with the provisions of this rule.
- (6) Waiver of Continuing Education
- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education where illness, disability or other undue hardship beyond the control of the licensee prevents a licensee from complying.
 - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office prior to the end of the licensure cycle in which the continuing education is due:
 - 1. A written request for a waiver which specifies what requirement is sought to be waived and the reasons for the request.

(Rule 0870-01-.12, continued)

2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.
 - (c) A waiver approved by the Board is effective for only the renewal period for which the waiver is sought unless otherwise specified in writing by the Board.
 - (d) The Board Consultant and the designee are authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (7) Continuing Education for Reactivation or Reinstatement of Retired, Expired, or Revoked License.
 - (a) Any massage therapist who applies for reactivation or reinstatement of a license which has been retired or has expired for over two (2) years, or any individual who applies for a new license after his or her prior license was revoked for failure to complete continuing education requirements, must submit along with the reactivation, reinstatement request, or new license application, proof which indicates the attendance and completion of twenty (20) hours of Board approved massage therapy related continuing education. The continuing education must have been earned in the twelve (12) months preceding application for reactivation or reinstatement. Eight (8) hours of the twenty (20) hour continuing education requirement for reinstatement may be completed in a multi-media format.
 - (b) A licensee who applies for reactivation or reinstatement will also be required to submit evidence of having completed the continuing education required pursuant to rule 0870-01-.12 during the most recent cycle in which the applicant's license was active.
 - (c) The continuing education hours required by the provisions of subparagraph (7)(a) of this rule may not be counted toward the continuing education hours required to be obtained before the end of the renewal period of reactivation or reinstatement.
 - (d) The Board may grant a waiver of the continuing education requirements set out in subparagraph (7)(a) of this rule, as provided in paragraph (6) of this rule.
- (8) Violations
 - (a) Any massage therapist, massage establishment owner, or massage establishment responsible person who fails to obtain the required continuing education hours or who falsely attests to attendance and/or completion of the required hours of continuing education may be subject to disciplinary action pursuant to T.C.A. § 63-18-108.
 - (b) Education hours obtained as a result of compliance with the terms of any disciplinary action shall not be counted toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§ 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed August 21, 1998; effective November 4, 1998. Amendment filed November 12, 1999; effective January 26, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed May 20, 2003; effective August 3, 2003. Amendment filed December 16, 2005; effective March 1, 2006. Amendments filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Withdrawal of rule 0870-01-.12(4)(b)1 filed and effective August 15, 2006. Amendment filed February 2, 2007; effective April 18, 2007. Amendment filed May 10, 2007; effective July 24, 2007. Amendment filed April 30, 2008; effective July 14, 2008. Amendment filed April 9, 2009; effective June 23, 2009. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a

(Rule 0870-01-.12, continued)

stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

0870-01-.13 DISCIPLINARY ACTIONS AND CIVIL PENALTIES.

- (1) Actions - Upon a finding by the Board that any provision of the Tennessee Massage Therapist Practice Act or the rules promulgated pursuant thereto has been violated, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense.
 - (a) Denial of an application for licensure.
 - (b) "Letter of warning." This is a written action. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (c) "Formal reprimand." This is a written action. It is a formal disciplinary action.
 - (d) "Probation." This is a formal disciplinary action for a fixed period of time.
 - (e) "Licensure suspension." This is a formal disciplinary action which suspends a licensee's right to practice for a fixed period of time. It contemplates the re-entry of the licensee into the practice under the license previously issued.
 - (f) "Licensure revocation." This is a formal disciplinary action which removes a licensee from the practice of the profession and terminates the license previously issued. No new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Board's revocation order.
 - (g) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 1. During any period of probation, suspension;
 2. As a prerequisite to the lifting of probation or suspension; or
 3. As a stand-alone requirement or requirements in any disciplinary action.
 - (h) Civil penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph three (3) of this rule.
 - (i) Once ordered, probation, suspension, assessment of a civil penalty, or any other condition(s) of any type of disciplinary action may not be lifted unless and until the licensee appears before the Board after the period of initial probation, suspension, or other conditioning has run and all conditions placed on the probation, suspension, have been met, and after any civil penalties assessed have been paid.
- (2) Order Modifications – A licensee can petition the Board to modify a previously issued disciplinary order if the licensee cannot fulfill the conditions of the imposed discipline. This procedure is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. This procedure cannot be used to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order.

(Rule 0870-01-.13, continued)

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification to the Board's Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with the Office of General Counsel, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is granted, a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 4. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven, the petitioner may request, in writing, to appear before the Board not less than thirty (30) days before the next regularly scheduled meeting of the Board.
- (3) Civil Penalties - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.
 - (a) Schedule and Amount of Civil Penalties
 1. A Type A civil penalty may be imposed whenever the Board finds the person who is required to be licensed by the Board is guilty of a violation of T.C.A. § 63-18-

(Rule 0870-01-.13, continued)

101, et seq. or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be a substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, a type A penalty shall include, but not be limited to, a person who is or was practicing massage therapy without a license from the Board. Type A civil penalties shall be assessed in the amount of not less than \$500 and not more than \$1,000.

2. A Type B civil penalty may be imposed whenever the Board finds the person required to be licensed by the Board is guilty of a violation of T.C.A. § 63-18-101, et seq. or regulations promulgated pursuant thereto in such manner as to impact directly on the care of clients or the public. Type B civil penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. A Type C civil penalty may be imposed whenever the Board finds the person required to be licensed, permitted, or authorized by the Board is guilty of a violation of T.C.A. § 63-18-101, et seq. or regulations promulgated pursuant thereto, which is neither directly detrimental to the clients or public, nor directly impacts their care, but has only an indirect relationship to client care or the public. Type C civil penalties may be assessed in the amount of not less than \$1 and not more than \$100.

(b) Procedures for Assessing Civil Penalties

1. During a contested case proceeding the Board may assess civil penalties in a type and amount which was not recommended by the Office of General Counsel.
2. In assessing civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
3. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.

Authority: T.C.A. §§ 4-5-217, 4-5-223, 63-18-101 et seq., 63-18-106, 63-18-108, 63-18-109, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed August 2, 2004; effective October 16, 2004. Amendment filed March 24, 2006; effective June 7, 2006. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

0870-01-.14 LICENSE.

- (1) Display of License - Every person who has received a license from the Board in this state shall display that license in a conspicuous place in his/her office/establishment and produce the license when required by the Board or its authorized representatives.
- (2) Replacement License - A licensee whose initial or renewal license has been lost or destroyed may be issued a replacement license upon receipt of a signed, written request in the Board Administrative Office. The licensee shall include in such request the facts concerning the loss or destruction of the original license and include the required fee pursuant to Rule 0870-01-.07.
- (3) Requests for Certificates of Fitness for licensees or registrants desiring to practice in another state must be made in writing to the Board Administrative Office.
- (4) Requests for verification of license must be made in writing to the Board Administrative Office.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-1-109, 63-1-118, 63-6-106, 63-18-104, 63-18-106, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017. Rule was previously numbered 0870-01-.14 but was renumbered 0870-01-.13 with the deletion of rule 0870-01-.10 and then renumbered 0870-01-.14 with the introduction of a new rule 0870-01-.02 filed May 19, 2017; effective August 17, 2017.

0870-01-.15 LICENSE ADDRESS AND NAME.

The contact information required in this Rule is necessary for and shall be used for, among other things, obtaining service of process in the event of a disciplinary action.

- (1) Change of Name - Each licensee whose name has changed shall notify the Board in writing of the name change and will provide both the old and new names. A notification of name change must also include a copy of the official document demonstrating the name change and must reference the licensee's license number. Such notification must be received in the Board's Administrative Office no more than thirty (30) days after such name change became effective.
- (2) Change of Address - Each licensee who has had a change of practice address and/or mailing address shall notify the Board in writing of his/her current practice and mailing addresses, giving both old and new addresses. Such notification shall be received in the Board's Administrative Office no more than 30 days after such change is effective and must reference the individual's or the establishment's name and license number. If the licensee has no current practice address, he/ she shall so inform the Board.
- (3) Change of Establishment Name - A licensed massage establishment shall notify the Board in writing each time the establishment's name changes no more than thirty (30) days after such change is effective. Such notification shall include the establishment's license number and old and new names. The establishment must also pay the replacement license fee, pursuant to rules 0870-01-.07(1)(f) and 0870-01-.07(2)(f).

Authority: T.C.A. §§ 63-1-106, 63-1-108, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed August 10, 1999; effective October 24,

(Rule 0870-01-.15, continued)

1999. Amendment filed July 25, 2002; effective October 8, 2002. Amendment filed March 24, 2006; effective June 7, 2006. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

0870-01-.16 OFFICERS, CONSULTANTS, RECORDS, DECLARATORY ORDERS, AND SCREENING PANELS.

- (1) The Board shall annually elect from its members the following officers:
 - (a) Chairperson - who shall, unless absent, preside at the Board meetings.
 - (b) Secretary-Treasurer - who along with the Board Administrator shall be responsible for correspondence from the Board. The secretary shall preside at all meetings at which the chairperson is absent.
- (2) Minutes of the Board meetings and all records, documents, applications, and correspondence will be maintained in the Board Administrative Office.
 - (a) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board Administrative Office. Any requests or inquiries requiring a Board decision or official Board action except documents relating to disciplinary actions, declaratory orders or hearing requests must be received fourteen (14) days prior to a scheduled Board meeting and will be retained in the Administrative Office and presented to the Board at the Board meeting. Such documents not timely received shall be set over to the next Board meeting.
 - (b) All records of the Board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Board Administrative Office during normal business hours.
 - (c) All complaints against licensees or establishments should be directed to the Division's Investigations Section and not to the Board or any of its members.
- (3) The Board shall appoint a Board Consultant, who may be a Board member or a Board designated licensed massage therapist either serving voluntarily or employed pursuant to contract with the Division, and authorizes said Consultant to act with the authority of the Board to do the following on behalf of the Board:
 - (a) Review and make initial determinations on licensure, renewal, and reactivation of licensure applications subject to the rules governing those respective applications and subject to subsequent ratification by the Board.
 - (b) Serve as Consultant to the Division to review complaints and request patient records under T.C.A. § 63-1-117.
- (4) Declaratory Orders - Petitions for Declaratory Order shall be resolved in accordance with the Tennessee Uniform Administrative Procedures Act.
- (5) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 of the Rules of the Department of State regarding petitions for reconsiderations and stays in that case.

(Rule 0870-01-.16, continued)

- (6) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-01-.13, of the Rules of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-223, 4-5-224, 63-1-138, 63-18-103, 63-18-108, 63-18-109, and 63-18-111.

Administrative History: Original rule filed November 13, 1996; effective January 27, 1997. Amendment filed August 10, 1999; effective October 24, 1999. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed June 16, 2006; effective August 30, 2006. Repeal and new rule filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012.

0870-01-.17 ADVERTISING.

- (1) Policy Statement. Lack of sophistication on the part of many members of the public concerning professional massage services, the importance of the interests affected by the choice of a massage therapist or a massage establishment and the foreseeable consequences of unrestricted advertising by massage therapists or on behalf of massage establishments, which is recognized to pose special possibilities for deception, require that special care be taken to avoid misleading the public. Massage therapists and massage establishments must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions - As used in this rule, the following terms shall have the meanings ascribed to them:
 - (a) Advertisement - Informational communication to the public in any manner designed to attract public attention to the practice of a Tennessee licensed massage therapist or massage establishment.
 - (b) Material Fact - Any fact which a reasonable and prudent person would need to know or rely upon in making an informed decision concerning the choice of practitioners or establishments to serve his or her particular needs.
 - (c) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell or provide. Its purpose is to switch consumers from buying or receiving the advertised merchandise or services, in order to sell or provide something else, usually at a higher fee or on a basis more advantageous to the advertiser.
 - (d) Discounted Fee - A fee offered or charged by a person, organization or establishment for any massage therapy product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee."
- (3) Advertising Fees and Services
 - (a) Fixed Fees. Fixed fees may be advertised for any service. It is presumed, unless otherwise stated in the advertisement, that a fixed fee for a service shall include the cost of all professionally recognized components within generally accepted standards that are required to complete the service.

(Rule 0870-01-.17, continued)

- (b) Ranges of Fees. A range of fees may be advertised for services. However, the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
 - (c) Discount Fees. Discount fees may be advertised if:
 - 1. The discount fee is in fact lower than the licensee's customary or usual fee charged for the service; and
 - 2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular nondiscounted fee for that service.
 - (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised service for which additional fees will be charged must be identified as such in any advertisement.
 - (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication, whichever is later, whether or not the services are actually rendered or completed within that time.
- (4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. § 63-18-108.
- (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality or competence of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances for predication of future services, which creates an unjustified expectation about results that the licensee can achieve.
 - (h) The communication of personal identifiable facts, data, or information about a client without first obtaining client consent.

(Rule 0870-01-.17, continued)

- (i) Any misrepresentation of a material fact.
- (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
- (k) Statements concerning the benefits or other attributes of procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
- (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
- (m) Failure to comply with the rules governing advertisement of fees and services, and advertising records.
- (n) The use of “bait and switch” advertisements. Where the circumstances indicate “bait and switch” advertising, the board may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
- (o) Misrepresentation of a licensee’s credentials, training, experience or ability.
- (p) Failure to include the corporation, partnership or individual licensee’s name in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees at that location; and
 - 2. Maintain and conspicuously display at the licensee’s office, a directory listing all licensees practicing at that location.
- (q) Failure to disclose the fact of giving compensation or anything of value to representative of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
- (r) The use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings after thirty (30) days from the departure of that licensee. (This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign).
- (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.

(Rule 0870-01-.17, continued)

- (t) Directly or indirectly offering, giving, receiving or agreeing to receive any fee or other consideration to or from a third party for the referral of a client in connection with the performance of professional services.
- (5) Advertising Records and Responsibility
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such entity.
 - (b) Any and all advertisement are presumed to have been approved by the licensee names therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Board or its authorized representative.
 - (d) At the time any type of advertisement is placed, the licensee must possess and reply upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public communication.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed November 13, 1996; effective January 27, 1997. Amendments filed March 24, 2006; effective June 7, 2006. Amendments filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012.

0870-01-.18 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice reporting requirements. Pursuant to the "Health Care Consumer Right-to-Know Act of 1998" codified at T.C.A. § 63-51-105, licensees shall report any and all professional malpractice judgments, awards or settlements in which payments to complaining parties exceed ten thousand dollars (\$10,000).
- (2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:
 - (a) Conviction of any felony.
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.

(Rule 0870-01-.18, continued)

5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.
- (3) Licensees shall notify the Board Administrative Office within thirty (30) days of a reportable event under this Rule (malpractice payment or conviction).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, 63-18-111, and 63-51-101, et seq. **Administrative History:** Original rule 0870-01-.18 filed March 14, 2000; effective May 28, 2000. Amendment filed March 24, 2006; effective June 7, 2006. Amendment filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012.

0870-01-.19 PROFESSIONAL AND ETHICAL STANDARDS FOR THERAPISTS AND ESTABLISHMENTS.

- (1) The Board requires licensed therapists and licensed establishments to uphold professional and ethical standards that allow for the proper discharge of their responsibilities to those served, that protect the integrity of the profession, and that safeguard the interests of individual clients. To ensure compliance with these professional ethical standards, licensed therapists, and, when applicable, licensed establishments, must:
 - (a) Accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline; and
 - (b) Acknowledge the limitations of and contraindications for massage and bodywork and, when appropriate, refer clients to appropriate health professionals; and
 - (c) Avoid any interest, activity or influence which might be in conflict with the licensee's obligation to act in the best interests of the client or the profession; and
 - (d) Comply with all applicable Tennessee statutes and regulations as well as Orders issued by the Board pursuant to its disciplinary and/or declaratory order authority; and
 - (e) Conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons; and
 - (f) Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training; and
 - (g) Exercise the right to refuse to treat any person or part of the body for just and reasonable cause; and
 - (h) Have a sincere commitment to provide the highest quality of care to those that seek their professional services; and
 - (i) Provide treatment only where there is reasonable expectation that it will be advantageous to the client; and

(Rule 0870-01-.19, continued)

- (j) Refrain, if the licensees are owners or employees of a massage therapy educational program approved by the Board pursuant to Rule 0870-02-.02, from dating or having a sexual relationship with any student of such program while the student is enrolled, including the period of time between semesters of attendance; and
 - (k) Refrain, if the licensees are owners or employees of a massage therapy educational program approved by the Board pursuant to Rule 0870-02-.02, from soliciting any student of such program to be a client or customer for massage therapy services while the student is enrolled, including the period of time between semesters of attendance; and
 - (l) Refrain from providing services when the licensee is either physically or mentally incapable of safely doing so. The term "safely" as used in this rule means safety of the massage therapists and anyone they come in contact with during the course of professional practice; and
 - (m) Represent their qualifications honestly, including their educational achievements and professional affiliations, and provide only those services which they are qualified and licensed to perform; and
 - (n) Respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and autonomy, as well as the client's reasonable expectations of professional behavior; and
 - (o) Respect the client's right to refuse, modify, or terminate treatment regardless of prior consent given; and
 - (p) Respect the client's right to treatment with informed and voluntary consent by obtaining and recording informed voluntary written consent of the client, or client's advocate, before performing:
 - 1. Therapeutic treatments beyond the normal narrowing of the ear canal and normal narrowing of the nasal passages; or
 - 2. Therapeutic treatments in the oropharynx; or
 - 3. Therapeutic same-gender breast massage; and
 - (q) Safeguard the confidentiality of all client information, unless the client provides written permission to release such information; or
 - 1. Unless such information is requested during a formal investigation by representatives of the State of Tennessee or other law enforcement agencies; or
 - 2. Unless required to do so pursuant to any action in a court of law; or
 - 3. Where required by law to report to state or federal agencies; and
 - (r) Refrain from practicing in an unlicensed establishment; and
 - (s) Launder or sanitize, before reuse, all materials, equipment and supplies utilized for each client.
- (2) Violation of any provision listed in paragraph (1) is grounds for disciplinary action, as provided in Rule 0870-01-.13.

(Rule 0870-01-.19, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111. **Administrative History:** Original rule filed May 30, 2003; effective August 13, 2003. Amendment filed October 4, 2004; effective December 18, 2004. Amendment filed March 24, 2006; effective June 7, 2006. Amendments filed June 16, 2006; effective August 30, 2006. Amendment filed February 2, 2007; effective April 18, 2007. Amendment filed April 9, 2012; effective July 8, 2012. The Government Operations Committee filed a stay of the rules on July 2, 2012; new effective date August 3, 2012. The Government Operations Committee filed a second stay of the rule on July 13, 2012; new effective date September 6, 2012. Amendments filed May 19, 2017; effective August 17, 2017.

Appendix 3

Policies

Updates

Related Information

Policy Statement
Tennessee Massage Licensure Board

LAPSED LICENSE POLICY-MASSAGE THERAPIST

The Massage Licensure Board recognizes that an individual may inadvertently allow his/her license to expire. However, the law prohibits an individual from working as a massage therapist without an active license. As such, the Board has adopted the following procedures for reinstatement of an expired license.

1. Immediately upon recognition that the license has expired, the individual must cease practicing and a reinstatement application must be obtained from the Board's website or from the Board's administrative office.
2. The reinstatement application must be completed in its entirety. The application is to be signed, notarized, and returned to the Board's administrative office along with any additional information and all fees specified in the instructions.
3. Upon receipt of a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, the Board's administrator may reinstate a license which has been in an expired status for less than two (2) months immediately upon approval from the Board's consultant. Although the Board and administrative staff recognizes the applicant's urgent interest in having their license reinstated, preferential treatment will not be given to these applicants. All applicants are reviewed in the order in which they are received.
4. If the work history reflects that the individual has operated in excess of three (3) months but not more than twelve (12) months on an expired license, the Board will send the licensee an Agreed Citation that specifies payment of a fine calculated as follows:

Months works on expired license	Agreed citation civil penalty total
4	\$100
5	\$200
6	\$300
7	\$400
8	\$500
9	\$600
10	\$850
11	\$1100
12	\$1350

5. The license of an individual that has been sent an Agreed Citation pursuant to this policy will not be reinstated unless and until the Agreed Citation is executed by the licensee and payment of the fine remitted to the Board's administrative office.
6. Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website and on its monthly disciplinary action report, as well as to all appropriate federal databanks included the National Practitioner Data Bank (NPDB).
7. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed citation is sent to the licensee, or if the establishment operated on a lapsed license for twelve (12) months or longer, the licensee shall be referred to the Office of Investigations and the Office of General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:
 - a. A reprimand of the license and probation of the license until the next renewal period;
 - b. Assessment of civil penalties in an amount to exceed the amounts specified above;
 - c. Assessment of costs associated with investigating and prosecuting the matter; and
 - d. Any and all other remedies the Board deems appropriate.
8. In the event the matter is referred to the Office of Investigations and Office of General Counsel for formal disciplinary action, the Board's administrative office shall be permitted to reinstate those applicants for whom they have received a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, subject to further action on the license as described in paragraph seven (7) above. Though the Board's administrator may reinstate such a license upon approval from the Board's consultant, preferential treatment will not be given to these applicants. These applications will be reviewed in the order in which they are received. For applicants who have declined an Agreed Citation, their application will be deemed received sixty (60) days from the date the Agreed Citation was sent.

EFFECTIVE ON: January 1, 2023

CHAIRPERSON: Michael Velten

Policy Statement
Tennessee Massage Licensure Board

LAPSED LICENSE POLICY-ESTABLISHMENT

The Massage Licensure Board recognizes that an establishment may inadvertently allow its license to expire. However, the law prohibits the practice of massage therapy in an establishment without an active license. As such, the Board has adopted the following procedures for reinstatement of an expired license.

1. Immediately upon recognition that the license has expired, the establishment must cease operating and a reinstatement application must be obtained from the Board's website or from the Board's administrative office.
2. The reinstatement application must be completed in its entirety. The application is to be signed, notarized, and returned to the Board's administrative office along with any additional information and all fees specified in the instructions.
3. Upon receipt of a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, the Board's administrator may reinstate a license which has been in an expired status for less than two (2) months immediately upon approval from the Board's consultant. Although the Board and administrative staff recognizes the applicant's urgent interest in having their license reinstated, preferential treatment will not be given to these applicants. All applicants are reviewed in the order in which they are received.
4. If the work history reflects that the establishment has operated in excess of two (2) months but not more than twelve (12) months on an expired license, the Board will send the licensee an Agreed Citation that specifies payment of a fine calculated as follows:

Months works on expired license	Agreed citation civil penalty total
3	\$250
4	\$500
5	\$750
6	\$900
7	\$1150
8	\$1300
9	\$1550
10	\$1800
11	\$2050
12	\$2300

5. The license of an establishment that has been sent an Agreed Citation pursuant to this policy will not be reinstated unless and until the Agreed Citation is executed by the licensee and payment of the fine remitted to the Board's administrative office.
6. Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website and on its monthly disciplinary action report, as well as to all appropriate federal databanks included the National Practitioner Data Bank (NPDB).
7. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed citation is sent to the licensee, or if the establishment operated on a lapsed license for twelve (12) months or longer, the licensee shall be referred to the Office of Investigations and the Office of General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:
 - a. A reprimand of the license and probation of the license until the next renewal period;
 - b. Assessment of civil penalties in an amount to exceed the amounts specified above;
 - c. Assessment of costs associated with investigating and prosecuting the matter; and
 - d. Any and all other remedies the Board deems appropriate.
8. In the event the matter is referred to the Office of Investigations and Office of General Counsel for formal disciplinary action, the Board's administrative office shall be permitted to reinstate those applicants for whom they have received a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, subject to further action on the license as described in paragraph seven (7) above. Though the Board's administrator may reinstate such a license upon approval from the Board's consultant, preferential treatment will not be given to these applicants. These applications will be reviewed in the order in which they are received. For applicants who have declined an Agreed Citation, their application will be deemed received sixty (60) days from the date the Agreed Citation was sent.

EFFECTIVE ON: January 1, 2023

CHAIRPERSON: Michael Welton

Policy Statement
Tennessee Massage Licensure Board

**POLICY ON AN INDIVIDUAL MASSAGE THERAPIST WORKING AT AN
ESTABLISHMENT WITH AN EXPIRED/LAPSED LICENSE**

The Massage Licensure Board recognizes that an individual may inadvertently work as a massage therapist at a massage establishment while said establishment's license is expired/lapsed. However, the law prohibits an individual from working as a massage therapist at a massage establishment with an expired/lapsed license. As such, the Board has adopted the following policy as it relates to the discipline of a massage therapist who is found to have worked at a massage establishment during a time which the establishment's license is expired/lapsed. **This policy only applies to individuals working in a massage establishment with a lapsed/expired license and does not apply to individuals working in a massage establishment that has never held a valid license.**

1. Immediately upon recognition that the establishment license has expired/lapsed, the individual must cease practicing at said establishment.
2. If the work history reflects that the individual has worked as a massage therapist at an establishment with an expired/lapsed license in excess of three (3) months but not more than twelve (12) months, the Board will send the licensee an Agreed Citation that specifies payment of a fine calculated as follows:

Months works on expired license	Agreed citation civil penalty total
4	\$100
5	\$200
6	\$300
7	\$400
8	\$500
9	\$600
10	\$850
11	\$1100
12	\$1350

3. Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website and on its monthly disciplinary action report, as well as to all appropriate federal databanks included the National Practitioner Data Bank (NPDB).
4. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed citation is sent to the licensee, or if the

licensee has worked as a massage therapist at an establishment operating on a lapsed/expired license for twelve (12) months or longer, the licensee shall be referred to the Office of Investigations and the Office of General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:

- a. A reprimand of the license and probation of the license until the next renewal period;
- b. Assessment of civil penalties in an amount to exceed the amounts specified above;
- c. Assessment of costs associated with investigating and prosecuting the matter; and
- d. Any and all other remedies the Board deems appropriate.

EFFECTIVE ON: MAY 10, 2022

CHAIRPERSON: Michael Welker

Policy Statement
Tennessee Massage Licensure Board

**POLICY ON AN INDIVIDUAL MASSAGE THERAPIST WORKING AT AN
ESTABLISHMENT THAT HAS NEVER HELD A VALID LICENSE**

The Massage Licensure Board recognizes that an individual may inadvertently work as a massage therapist at a massage establishment that is unlicensed. However, the law prohibits an individual from working as a massage therapist at an unlicensed massage establishment. As such, the Board has adopted the following policy as it relates to the discipline of a massage therapist who is found to have worked at an unlicensed massage establishment.

1. Immediately upon recognition that the establishment is unlicensed, the individual must cease practicing at said establishment.
2. If the work history reflects that the individual has worked as a massage therapist at an unlicensed massage establishment in excess of three (3) months but not more than twelve (12) months, the Board will send the licensee an Agreed Citation that specifies payment of a fine calculated as follows:

Months worked at never licensed establishment	Agreed citation civil penalty total
4	\$200
5	\$400
6	\$600
7	\$800
8	\$1000
9	\$1200
10	\$1400
11	\$1600
12	\$1800

3. Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website and on its monthly disciplinary action report, as well as to all appropriate federal databanks included the National Practitioner Data Bank (NPDB).
4. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed citation is sent to the licensee, or if the licensee has worked as a massage therapist at an unlicensed establishment for twelve (12) months or longer, the licensee shall be referred to the Office of Investigations and the Office of

General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:

- a. A reprimand of the license and probation of the license until the next renewal period;
- b. Assessment of civil penalties in an amount to exceed the amounts specified above;
- c. Assessment of costs associated with investigating and prosecuting the matter; and
- d. Any and all other remedies the Board deems appropriate.

EFFECTIVE ON:

May 10, 2022

CHAIRPERSON:

Michael Welker

POLICY STATEMENT

TENNESSEE MASSAGE LICENSURE BOARD

ESTABLISHMENT LICENSE POLICY

The massage practice act defines a “massage establishment” as “a place of business held out to the public wherein massage is practiced.” T.C.A. § 63-18-102(4). The Massage Licensure Board’s rules further define an “establishment” as “a business or institution that is a fixed and permanent location or a mobile vehicle facility that is open and accessible to the general public for compensated massage services.” TENN. COMP. R. & REGS. 0870-01-.01(10). Under the massage practice act, any establishment engaging in or advertising massage for compensation must hold massage establishment license. T.C.A. § 63-18-104.

This policy is intended to expand upon these definitions to help massage therapists, massage customers, and the public at large understand when a massage establishment license is required.

The definition of “establishment” in the Massage Board rules has 3 parts: 1) fixed/permanent location or mobile vehicle facility; 2) open and accessible to the general public, and 3) for compensated massage services. An establishment license is required only if all three parts are met.

- 1) The Board believes that an establishment is fixed or permanent when there is consistency in the establishment’s location, regardless of how many days per week massage is practiced at that location. A “mobile vehicle facility” may require an establishment license despite being movable and would include massage performed in vehicles such as busses, RVs, large boats, or any other facility able to move or to be moved – such mobile vehicles will need massage establishment licenses if requirements 2) and 3) are met.
- 2) The Board believes that a facility is “open to the public” unless its clientele is limited to a list of specific individuals or the facility offers massage only to those who can access a closed environment, such as an office of some type. For example, if massage is offered within a private building only to employees of a certain business, the massage business would not be “open to the public” and would not require a massage establishment license. As another example, massage offered only to members of a sports team would not be “open to the public.”
- 3) “Compensation” is defined in the massage practice act as “the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value.” If massage is not being done for compensation, a massage license is not required. For example, massages provided for free to attendees of a conference or participants of a walkathon, where the person receiving a massage does not pay anything for the massage and the person performing the massage does not receive compensation, would not require a license.

Under these guidelines, massage therapy practiced in the following circumstances will usually not require an establishment license because they tend to be temporary, short-term, one-time events that are not fixed and permanent: health fairs, festivals, concerts, tournaments, marathons, farmers markets, and promotional setups in businesses.

The Board encourages licensees and other interested individuals to carefully review the massage practice act, Massage Board rules, and this policy to determine whether a given situation requires a massage establishment license. If a situation arises that has no clear answer from the law, rules, and this policy, please contact the Board administrative office, who will work with a designated Board member to provide guidance in that situation.

ADOPTED BY THE MESSAGE LICENSURE BOARD ON November 8, 2019.



Chairperson
Tennessee Massage Licensure Board

This position statement by the Board of Chiropractic Examiners is being linked on the Massage Board website with Board permission in case it might help massage therapists understand the law in question.

**POSITION STATEMENT
TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS**

PUBLIC CHAPTER 357

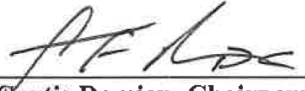
Tenn. Code Ann. § 63-18-105 (c) Notwithstanding the requirements of this part, no establishment license is required for the office of a physician licensed under chapter 4, 6, or 9 of this title if a massage for compensation is provided within that office by a licensed massage therapist. This statute went into effect May 10th, 2019 and states that a massage establishment license is no longer required for the office of a licensed medical doctor, osteopathic doctor, or doctor of chiropractic if a massage for compensation is provided within that office by a licensed massage therapist.

1. To qualify as a Chiropractic Office, chiropractic service must be the primary treatment at said facility.
2. If Massage services are provided to the public outside of the Chiropractic Office, an establishment license may still be required for the Licensed Massage Therapist according to the Tennessee Board of Massage Therapy rules.
3. Massage Therapists providing massage services in a Chiropractic Office must uphold to all ethical standards at all times in accordance to the Tennessee Massage Licensure Act. In addition, the Chiropractic Office must maintain a current copy of the active license of all Massage Therapist providing services in said facility.

It is recommended that Chiropractic Physicians complete a one- time 2 hour TN Massage Law Course in addition to their regular required continuing education when collaborating healthcare services to insure that all ethical practices are being met.

A licensed Massage Therapists who works in a Chiropractic Physician's office either offering massage services to the patients of said office, or to their own cliental while in the office are no longer required to have a massage establishment license in the state of Tennessee.

Adopted by the Board of Chiropractic Examiners on this the 15th day of April, 2021.



**Curtis Damien, Chairperson
Board of Chiropractic Examiners**

MassageWorks Handout: Tennessee Massage Law for 2023-2024

Peer Assistance

(excerpts from the Tennessee Massage Licensure Board website)

The Board of Massage Licensure has contracted with the Tennessee Professional Assistance Program, to assist in safeguarding health care consumers in Tennessee by providing a consultation, referral, and monitoring program for Massage Therapy Practitioners whose practice is impaired or potentially could be impaired due to the use of alcohol or drugs, or a psychological or physiological condition.

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### **Objectives of the Peer Assistance Program**

Protect health care consumers from potentially unsafe practitioners

Offer treatment options, monitoring, and advocacy to practitioners, employers, and health profession students on chemical dependency

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Benefits of the Peer Assistance Program

Protection of the public by early intervention and removal of the impaired practitioner from practice

An alternative to disciplinary action is available to the practitioner - no report is made to the Board of Massage Licensure if the practitioner is compliant with treatment recommendations and the Peer Assistance Program contract.

Advocacy for the practitioner with employers, potential employers, and the Board of Massage Licensure if needed.

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### **Contact the Peer Assistance Program to:**

Obtain more information about the program

Ask general questions about impaired health care professionals

Consult with program staff about a specific professional with a suspected problem

Report a health care professional with a suspected or identified problem

Provide chemical dependency education to schools, professional associations and other organizations through access to e-learning ([tnpap.org](http://tnpap.org))



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Eligible Massage Therapy Practitioners

Massage Therapy Applicants as referred by the Board of Massage Licensure

Massage Therapists and Massage Establishment Operators

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**To Make a Referral**

**CALL 615-726-4001**

A referral to TnPAP can be made confidentially by an employer, employee assistance program professional, a co-worker, practice partner, family member, friend, or the practitioner him/herself.

The person making the referral needs to provide objective information including times, dates, and incidents that support the allegation of impairment.

Information is kept confidential unless the practitioner is referred by the licensing board and/or is noncompliant with the program requirements.

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**Tennessee Professional Assistance Program
545 Mainstream Drive Suite 414
Nashville, TN 37228-1210**

**Phone: 615-726-4001
Toll Free: 800-776-0786
Fax: 615-726-4003**

E-mail: rachel@tnpap.org

Resources

www.tn.gov/health/health-program-areas/health-professional-boards/ml-board.html

Business Mastery: A Guide for Creating a Fulfilling, Thriving Business and Keeping It Successful, Cherie M. Sohnen-Moe, Lippincott Williams & Wilkins, 1997.

The Business of Massage: The Complete Guide to Establishing Your Massage Career, The American Massage Therapy Association, 2002.

Nina McIntosh: The Educated Heart Fourth Edition by Laura Allen (Author), Lippincott Williams & Wilkins, 2016.

Ethics for Massage Therapists, Terrie Yardley-Nohr, Lippincott Williams & Wilkins, 2007.

The Ethics of Touch: The Hands-on Practitioner's Guide to Creating a Professional, Safe and Enduring Practice by Cherie M Sohnen-Moe and Ben E Benjamin, Lippincott Williams & Wilkins, 2004.