

Florida Massage Therapy Laws & Rules

Florida Massage Therapy Laws & Rules

Goals & Objectives

Course Description

“Florida Massage Therapy Laws and Rules” is a continuing education course for Florida licensed Massage Therapists. The course focuses on the laws and rules that govern and regulate the practice of massage therapy in the state of Florida. Information presented in this program includes Chapters 456 (Health Professions and Occupations – General Provisions) and 480 (Massage Therapy Practice Act) of the Florida Statutes and Chapter 64B7 (Massage Therapy Rules of the Florida Administrative Code).

Course Rationale

This course was developed to educate Florida licensed massage therapists about the laws and rules that regulate their profession.

Course Goals & Objectives

Upon completion of this course, the learner will be able to:

1. Identify the requirements for obtaining Florida massage therapy licensure
2. Outline the requirements for renewing Florida massage therapy licensure
3. Identify the functions of the Florida Massage Therapy Board
4. Define practice parameters of lawful massage therapy practice
5. Identify actions that are grounds for disciplinary action
6. Outline the penalties associated with unlawful conduct

Course Provider – Innovative Educational Services

Course Instructor - Michael Niss, DPT

Target Audience – Florida licensed massage therapists

Course Educational Level - This course is applicable for introductory learners.

Course Prerequisites – None

Method of Instruction/Availability – Online text-based course available continuously

Criteria for Issuance of CE Credits – 70% or greater correct on the course post-test

Continuing Education Credits - Two (2) hours of continuing education credit

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Course Outline

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Florida Statutes, Chapter 480 (Florida Massage Therapy Practice Act)

The following is an abridged version of the Florida Massage Therapy Practice Act.

To read the statutes in their entirety, please go to:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0480/0480.html

480.031 Short title

This act shall be known and may be cited as the “Massage Practice Act.”

480.032 Purpose

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

480.033 Definitions

- (1) “Board” means the Board of Massage Therapy.
- (2) “Department” means the Department of Health.
- (3) “Massage” means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.
- (4) “Massage therapist” means a person licensed as required by this act, who administers massage for compensation.
- (5) “Apprentice” means a person approved by the board to study massage under the instruction of a licensed massage therapist.
- (6) “Colonic irrigation” means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.
- (7) “Establishment” means a site or premises, or portion thereof, wherein a massage therapist practices massage.
- (8) “Licensure” means the procedure by which a person, hereinafter referred to as a “practitioner,” applies to the board for approval to practice massage or to operate an establishment.

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480.035 Board of Massage Therapy

(1) The Board of Massage Therapy shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.

(2) Five members of the board shall be licensed massage therapists and shall have been engaged in the practice of massage for not less than 5 consecutive years prior to the date of appointment to the board. The Governor shall appoint each member for a term of 4 years. Two members of the board shall be laypersons. Each board member shall be a high school graduate or shall have received a high school equivalency diploma. Each board member shall be a citizen of the United States and a resident of this state for not less than 5 years.

(5) The board shall hold such meetings during the year as it may determine to be necessary, one of which shall be the annual meeting. The chair of the board shall have the authority to call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.

480.041 Massage therapists; qualifications; licensure; endorsement

(1) Any person is qualified for licensure as a massage therapist under this act who:

(a) Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;

(b) Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and

(c) Has received a passing grade on an examination administered by the department.

(3) Upon an applicant's passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.

480.0415 License renewal

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

480.043 Massage establishments; requisites; licensure; inspection

(1) No massage establishment shall be allowed to operate without a license granted by the department in accordance with rules adopted by the board.

(2) A person who has an ownership interest in an establishment shall submit to background screening requirements.

(3) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial

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responsibility, insurance coverage, and the license application and granting process.

(4) Any person, firm, or corporation desiring to operate a massage establishment in the state shall submit to the department an application and an application fee.

(5) Upon receiving the application, the department may cause an investigation to be made of the proposed massage establishment.

(6) If, based upon the application and any necessary investigation, the department determines that the proposed establishment would fail to meet the standards adopted by the board under subsection (3), the department shall deny the application for license. Such denial shall be in writing and shall list the reasons for denial. Upon correction of any deficiencies, an applicant previously denied permission to operate a massage establishment may reapply for licensure.

(7) If, based upon the application and any necessary investigation, the department determines that the proposed massage establishment may reasonably be expected to meet the standards adopted by the department under subsection (3), the department shall grant the license under such restrictions as it shall deem proper as soon as the original licensing fee is paid.

(8) The department shall deny an application for a new or renewal license if a person with an ownership interest in the establishment or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense relating to kidnapping, false imprisonment, luring or enticing a child, human trafficking, human smuggling, sexual battery, female genital mutilation, procuring a person under the age of 18 for prostitution, selling or buying of minors into prostitution, forcing, compelling, or coercing another to become a prostitute, deriving support from the proceeds of prostitution, lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age, lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person, sexual performance by a child, the protection of minors, computer pornography, the transmission of material harmful to minors to a minor by electronic device or equipment, or the selling or buying of minors.

(9)

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

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

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

(10) Renewal of license registration for massage establishments shall be accomplished pursuant to rules adopted by the board.

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

(12) A person with an ownership interest in or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of an establishment that was issued a license before July 1, 2014, shall submit to a background screening before January 31, 2015.

(13) This section does not apply to a physician licensed under chapter 458, chapter 459, or chapter 460 who employs a licensed massage therapist to perform massage on the physician's patients at the physician's place of practice.

480.046 Grounds for disciplinary action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action:

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

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

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

(d) False, deceptive, or misleading advertising.

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

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

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

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

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- (i) Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.
 - (j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.
 - (k) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.
 - (l) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.
 - (m) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.
 - (n) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.
 - (o) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.
- (2) The board may enter an order denying licensure or imposing any of the penalties in s.456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s.456.072(1).
- (3) The board shall have the power to revoke or suspend the license of a massage establishment licensed under this act, or to deny subsequent licensure of such an establishment, in either of the following cases:
- (a) Upon proof that a license has been obtained by fraud or misrepresentation.
 - (b) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.

480.0465 Advertisement

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

480.047 Penalties

- (1) It is unlawful for any person to:

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- (a) Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this chapter or unless otherwise specifically exempted from licensure under this chapter.
 - (b) Operate any massage establishment unless it has been duly licensed as provided herein, except that nothing herein shall be construed to prevent the teaching of massage in this state at a board-approved massage school.
 - (c) Permit an employed person to practice massage unless duly licensed as provided herein.
 - (d) Present as his or her own the license of another.
 - (e) Allow the use of his or her license by an unlicensed person.
 - (f) Give false or forged evidence to the department in obtaining any license provided for herein.
 - (g) Falsely impersonate any other license holder of like or different name.
 - (h) Use or attempt to use a license that has been revoked.
 - (i) Otherwise violate any of the provisions of this act.
- (2) Except as otherwise provided in this chapter, any person violating the provisions of this section is guilty of a misdemeanor of the first degree.

480.0475 Massage establishments; prohibited practices

- (1) A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:
- (a) Located on the premises of a health care facility, a health care clinic, a hotel, motel, or bed and breakfast inn, a timeshare, a public airport, or a pari-mutuel facility;
 - (b) In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant, an osteopathic physician or physician assistant licensed, a chiropractic physician, a podiatric physician, an advanced registered nurse practitioner, or a dentist; or
 - (c) Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.
- (2) A person operating a massage establishment may not use or permit the establishment to be used as a principal domicile unless the establishment is zoned for residential use under a local ordinance.
- (3) A person violating the provisions of this section commits a misdemeanor of the first degree.

480.0485 Sexual misconduct in the practice of massage therapy

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

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480.0535 Documents required while working in a massage establishment

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

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

(2) A person operating a massage establishment must:

(a) Immediately present, upon the request of an investigator of the department or a law enforcement officer:

- 1. Valid government identification while in the establishment.
- 2. A copy of the documentation specified in paragraph (1)(a) for each employee and any person performing massage in the establishment.

(b) Ensure that each employee and any person performing massage in the massage establishment is able to immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment.

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

- (a) For a first violation, a misdemeanor of the second degree.
- (b) For a second violation, a misdemeanor of the first degree.
- (c) For a third or subsequent violation, a felony of the third degree.

Florida Administrative Code 64B7 Board of Massage

The following is an abridged version of the Florida Board of Massage Therapy Rules.
To read the statutes in their entirety, please go to: <https://www.flrules.org/gateway/Organization.asp?OrgNo=64b7>

Chapter 64B7-25 Examination

64B7-25.001 Examination Requirements.

(1) The Department shall issue a license to a person who submits a completed application

(2) The Board approves the following examinations:

(a) National Certification Board for Therapeutic Massage and Bodywork

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Examination;

- (b) National Certification Examination for Therapeutic Massage;
 - (c) National Exam for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork;
 - (d) The Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards;
 - (e) The National Board for Colon Hydrotherapy Examination.
- (3) Any Board-approved examination may be offered in the Spanish language.
- (4) Prior to the practice of colon hydrotherapy, any licensed massage therapist, or apprentice shall be required to present certification to the Board of successful completion of examination by a Board approved massage school after completion of a supervised classroom course of study in colonic irrigation or in the case of a duly authorized apprenticeship training program, evidence of having completed 100 hours of colonic irrigation training, including a minimum of 45 hours of clinical practicum with a minimum of 20 treatments given.
- (5) Prior to the practice of colonic irrigation, any licensed massage therapist, or apprentice shall be required to successfully complete and pass the National Board for Colon Hydrotherapy Examination (NBCHT) which is approved by the Board.

64B7-25.0011 Colonic Irrigation Application.

An applicant for the colonic irrigation examination or for re-examination must file a completed application including proof of completion of an approved course of study or an apprenticeship.

64B7-25.004 Endorsements.

The Department shall issue a license by endorsement to a person who:

- (1) Pays to the Department the initial licensure fee set forth in subsection 64B7-27.001, F.A.C.; and,
- (2) Submits a completed application on form DH-MQA 1115, "Massage Therapist Licensure Application," (Rev. 7/16), adopted and incorporated by reference in Rule 64B7-25.001, F.A.C.; and,
- (3) Is currently licensed and has practiced massage under the laws of another state, and was required, in order to be so licensed to meet standards of education or apprenticeship training substantially similar to, equivalent to, or more stringent than those required for licensure by Florida law and these rules; and,
- (4) Demonstrates that his out-of-state license was issued upon the satisfactory completion of an examination comparable to the examination approved by the Board; and,
- (5) Has no outstanding or unresolved complaints filed against him or her in the jurisdiction of licensure.
- (6) Completes a current curriculum course from a Board approved school covering the Florida Statutes and rules related to massage therapy.

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Chapter 64B7-26 Massage Establishments

64B7-26.001 Definitions.

- (1) The term “owner” means the sole proprietor, partnership, limited partnership or corporation that operates the massage establishment.
- (2) The term “business name” means the name under which the owner applies for the establishment license to provide massage therapy, if different from the name of the owner.

64B7-26.002 Licensure of Massage Establishments.

- (1) Each establishment, shall obtain a license from the Department as required by Section 480.043(1), F.S., by submitting a completed form DH-MQA 1263, “Massage Establishment Licensure Application”
- (2) The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a partnership, limited partnership or corporation, the application shall be submitted in the name of the business entity and shall be signed by an authorized representative.
- (3) An owner operating an establishment under a fictitious name as defined in Section 865.09, F.S., must provide such name to the Board on the application for licensure. Any advertisement by the establishment of massage therapy must include the fictitious name, and must comply with Rule 64B7-33.001, F.A.C.
- (4) The applicant shall submit proof confirming property damage and bodily injury liability insurance coverage for the proposed establishment. If the establishment is operated under a business name, the proof of insurance shall include both the name of the owner and the business name.

64B7-26.003 Massage Establishment Operations.

- (1) Facilities, Each establishment shall meet the following facility requirements:
 - (a) Comply with all local building code requirements.
 - (b) Provide for the use of clients a bathroom with at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle.
 - (c) Maintain toilet facilities in a common area of the establishment. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such central facilities shall be within three hundred (300) feet of the massage establishment.
 - (d) If equipped with a whirlpool bath, sauna, steam cabinet and/or steam room, maintain clean shower facilities on the premises.
- (2) Personnel. A licensed massage therapist must be on the premises of the establishment if a client is in a treatment room for the purpose of receiving massage therapy.
- (3) Safety and sanitary requirements. Each establishment shall:

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- (a) Provide for safe and unobstructed human passage in the public areas of the premises; provide for removal of garbage and refuse; and provide for safe storage or removal of flammable materials.
 - (b) Maintain a fire extinguisher in good working condition on the premises. As used herein “good working condition” means meeting the standards for approval by the State Fire Marshal. Such standards are presently contained in Chapter 69A-21, F.A.C.
 - (c) Exterminate all vermin, insects, termites, and rodents on the premises.
 - (d) Maintain all equipment used to perform massage services on the premises in a safe and sanitary condition, including the regular application of cleansers and bactericidal agents to the massage table. Unless clean sheets, towels, or other coverings are used to cover the massage table for each client, “regular application,” as used herein, means after the massage of each client. If clean coverings are used for each client, then “regular application” shall mean at least one time a day and also whenever oils or other substances visibly accumulate on the massage table surface.
 - (e) Maintain a sufficient supply of clean drapes for the purpose of draping each client while the client is being massaged, and launder before reuse all materials furnished for the personal use of the client, such as drapes, towels and linens. As used herein “drapes” means towels, gowns, or sheets.
 - (f) Maintain lavatories for hand cleansing and/or a chemical germicidal designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.
 - (g) Maintain all bathroom and shower facilities and fixtures in good repair, well-lighted and ventilated.
- (4) Financial responsibility and insurance coverage. Each establishment shall maintain property damage and bodily injury liability insurance coverage. The original or a copy of such policy shall be available on the premises of the establishment.

64B7-26.004 Inspection Upon Application for License.

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

64B7-26.005 Periodic Inspections.

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

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safety, sanitary requirements, and a review of existing insurance coverage.

64B7-26.007 Transfer of Massage Establishment License.

(1) When there is no change of ownership or location, the owner may change the business name of the establishment. The owner shall apply for a change of business name by submitting a completed Form DH-MQA 1264 "Massage Establishment Change of Location/Name Application" When a massage establishment business name is changed, without a change in ownership or location, a new establishment inspection is not required.

(2) When there is no change of ownership, the owner of a massage establishment may transfer the license from one location to another. The owner shall apply for a change of location by submitting a completed Form DH-MQA 1264 "Massage Establishment Change of Location/Name Application" (Rev. 6/14), accompanied by the application fee provided in paragraph 64B7-27.100(2)(e), F.A.C. A massage establishment license may not be transferred from one location to another until after inspection by the department.

64B7-26.010 Sexual Activity Prohibited.

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

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

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

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

Chapter 64B7-28 Biennial License Renewal

64B7-28.002 Biennial Renewal of Massage Establishment License.

All license renewals for massage establishments shall meet the requirements as set forth in Chapter 480, F.S., and these rules. All massage establishments shall renew their licenses on or before August 31 of each biennial year, according to the fee schedule as set forth in Rule 64B7-27.100, F.A.C., and the insurance

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coverage requirements of subsection 64B7-26.002(4), F.A.C. If, however, the massage establishment does not renew its license timely, the license shall be considered delinquent. If a massage establishment is operating with a delinquent license, said establishment is in violation of Section 480.047(1)(b), F.S., and is subject to the criminal penalties as provided for in Section 480.047(2), F.S. In order to renew a delinquent license, the massage establishment shall pay the late fee for delinquent renewal in the amount of seventy-five dollars (\$75.00) as set forth in Section 480.044(2), F.S., and the biennial renewal fee as specified in Rule 64B7-27.100, F.A.C.

64B7-28.0042 Requirements for Reactivation of an Inactive License.

An inactive license shall be reactivated upon demonstration that the licensee has paid the reactivation fee set forth in paragraph 64B7-27.100(1)(f), F.A.C., and has complied with the following requirements:

- (1) As a condition to the reactivation of an inactive license, a massage therapist must submit proof of having completed the appropriate continuing education requirements as set forth in Rule 64B7-28.009, F.A.C.
- (2) However, any licensee whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for two out of the previous four years in another jurisdiction shall be required to appear before the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. At the time of such appearance, the licensee must:
 - (a) Show compliance with subsection (1) above;
 - (b) Account for any activities related to the practice of massage therapy in this or any other jurisdiction during the period that the license was inactive and establish an absence of malpractice or disciplinary actions pending in any jurisdiction;
 - (c) Prove compliance with Section 456.065, F.S., and subsection 64B7-28.001(2), F.A.C.
- (3) The Department shall not reactivate the license of any massage therapist who has:
 - (a) Committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a licensee pursuant to Section 480.046, F.S.
 - (b) Failed to comply with the provisions of Section 456.036, F.S., and subsections 64B7-28.001(2) and (3), F.A.C.
- (4) Any licensed massage therapist whose license has been in an inactive or retired status for more than two consecutive biennial licensure cycles shall be required to successfully complete and pass the NBCHT, prior to resuming the practice of colonic irrigation.
- (5) Any applicant for massage therapist licensure or licensed massage therapist, who in conjunction with previous massage therapist licensure was certified to practice colonic irrigation, shall be required to successfully complete and pass the NBCHT prior to practicing colon hydrotherapy.

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64B7-28.0043 Delinquent Status License.

- (1) The failure of any license holder to either renew the license or elect inactive status before the license expires shall cause the license to become delinquent.
- (2) The delinquent status licensee must affirmatively apply for active or inactive status during the licensure cycle in which the license becomes delinquent. The failure by the delinquent status licensee to cause the license to be renewed or made inactive before the expiration of the licensure cycle in which the license became delinquent shall render the license null and void without further action by the Board or the Department.
- (3) The delinquent status licensee who applies for license renewal or inactive status shall:
 - (a) Apply to the department for either license renewal as required by Section 480.0415, F.S., or inactive status as required by Section 456.036, F.S.
 - (b) Pay to the Board either the license renewal fee as set forth in Rule 64B7-27.006, F.A.C., or the inactive status fee as set forth in Rule 64B7-27.010, F.A.C.; the delinquency fee as set forth in Rule 64B7-27.015, F.A.C., and the change of status fee as set forth in Rule 64B7-27.016, F.A.C., if applicable; and
 - (c) If renewal is elected, demonstrate compliance with the continuing education requirements found in Rule 64B7-28.009, F.A.C.

64B7-28.0044 Retired Status and Reactivation of Retired Status License.

- (1) A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee set forth in Rule 64B7-27.100, F.A.C. If the licensee chooses to place the license in retired status at any time other than at the time of license renewal the licensee shall pay a change of status processing fee of \$50.00 and the retired status fee.
- (2) A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:
 - (a) Paying the reactivation fee described at Rule 64B7-27.100, F.A.C.;
 - (b) Demonstrating satisfaction of the continuing education requirements that would have been imposed on an active status licensee under this title for each licensure biennial period in which the licensee was on retired status.

64B7-28.007 Exemption of Spouses of Members of Armed Forces From Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces and was caused to be absent from Florida for a period of at least six consecutive months because of the spouse's duties with the armed forces and who at the time the absence became necessary was in good standing with the Board of Massage and entitled to practice massage in Florida shall be exempt from all licensure renewal provisions under these rules. The licensee must show satisfactory proof of the absence and the spouse's military status.

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64B7-28.008 Display of Licenses.

(1) Each licensed practitioner shall conspicuously display a current license issued by the Department, or photo copy thereof, at each location at which he or she practices.

(a) Effective on August 1, 2012, for each initial license or duplicate license issued the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

(b) Effective on September 1, 2013, the licensee must attach to the displayed license a 2 by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

(2) Each apprentice shall conspicuously display his or her apprentice certificate issued by the Board office, in the establishment for which it has been issued. Effective on August 1, 2012, the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

(3) The owner of each massage establishment shall conspicuously display a current establishment license issued by the Department on the premises.

64B7-28.009 Continuing Education.

(1) During each biennium, each licensee shall complete a minimum of one classroom hour of continuing education from a Board-approved provider for each month the license is active, up to a maximum requirement of 24 months for the renewal period.

(2) For the purposes of this chapter a "classroom hour" shall be defined as no less than 50 minutes of any one clock hour during which the student participates in a learning activity of the continuing education provider.

(3) Continuing education for licensees who are renewing their license for the first time shall include the following:

(a) Two classroom hours of instruction on prevention of medical errors that meet the requirements of Section 456.013(7), F.S.

(b) The remaining classroom hours may be satisfied by completing instruction in any of the subject matter listed in paragraphs 64B7-28.009(4)(a)-(d), F.A.C., of this rule.

(4) The continuing education requirement for all other licensees, not renewing for the first time, shall include the following:

(a) At least twelve (12) of the classroom hours of instruction must be relevant to and focus on massage therapy techniques, skills, and protocols as defined in Section 480.033(3), F.S. The instruction must be provided in the presence of the Board approved instructor(s) and must include hands-on participation by the licensee and/or a demonstration by the instructor(s).

(b) Two classroom hours of instruction in professional ethics. This requirement may be satisfied by attending two continuous hours of a meeting of the Board, provided the licensee does not have a disciplinary or licensure matter on the agenda and the licensee signs in and out of the meeting to demonstrate

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compliance.

(c) Two classroom hours of instruction on Chapters 456 and 480, F.S., and the rules promulgated by the Board. This requirement may be satisfied by attending two continuous hours of a meeting of the board, provided the licensee does not have a disciplinary or licensure matter on the agenda and the licensee signs in and out of the meeting to demonstrate compliance.

(d) Two classroom hours of instruction on prevention of medical errors that meet the requirements of Section 456.013(7), F.S.

64B7-28.0095 Continuing Education for Pro Bono Services.

(1) Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that include instruction, Rule 64B7-28.0095, F.A.C., Continuing Education for Pro Bono Services.

(2) Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that include instruction, demonstration and/or hands on practice in Rule 64B7-28.009, F.A.C., may be awarded, on an hour per hour basis, for the performance of pro bono services to the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigence shall be that recognized by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services.

(3) In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval on form DH-MQA 1243 "Request for Approval of Continuing Education for Pro Bono Services For the Biennial Renewal period of _____ (rev. 04/13)" which must include the following information:

- (a) The type, nature and extent of services to be rendered;
- (b) The location where the services will be rendered;
- (c) The number of patients expected to be served; and
- (d) A statement indicating that the patients to be served are indigent, underserved or in an area of critical need.

(4) A statement of completion of preapproved services performed must be submitted on form DH-MQA 1244 (rev. 4/13) "Statement of Performance of Continuing Education Credits for Preapproved Pro Bono Services for the Biennial Renewal Period of _____ Pursuant to Rule 64B7-28.0095, F.A.C.,"

(5) Approval for pro bono services is only granted for the biennium for which it is sought. The licensee must request approval for each biennium they wish to receive credit for pro bono services.

64B7-28.010 Requirements for Board Approval of Continuing Education Programs.

(1) In order to receive Board approval as a provider to provide one or more programs, an applicant shall:

- (a) Submit a completed Massage Continuing Education Programs Provider Registration Application, Form B: Course Offering Data Form, Form # DH-MQA

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1258 (rev. 7/13/13), and Massage Continuing Education Provider Application – Form C: Instructor Qualifications Form, Form # DH-MQA 1259 (rev. 7/13/13), incorporated herein by reference, and a non-refundable application fee of \$100.00.

(b) Sign and abide by written agreement to:

1. Provide an identifiable person to be responsible for ensuring that each program presented under their Board of Massage Therapy provider registration number meets program requirements set forth in subsection (2) or (3) below.
2. Retain a “sign-in-sheet” with the signature of participants and copies of any promotional materials for at least 4 years following the course.
3. Provide each participant with a certificate of attendance verifying the program has been completed. The certificate shall not be issued until completion of the program and shall contain the provider’s name and registration number, title of program and program number, instructor, date, number of contact hours of credit, the licensee’s name and license number.
4. Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.

(2) Each continuing education program presented to meet the requirements of paragraph 64B7-28.009(2)(a), F.A.C., shall:

(a) Be taught via live classroom instruction including hands-on instruction and/or demonstration;

(b) Have stated learning objectives;

(c) Be instructed by a person who meets at least one of the following criteria:

1. Holds a minimum of a bachelor’s degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or
2. Has graduated from a school of massage or an apprenticeship program which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board, and has completed three years of professional experience in the practice of massage, and
 - a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
 - b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
 - c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or
3. Is licensed as a massage therapist in another state or foreign sovereign state having standards of education or apprenticeship training substantially similar to or more stringent than those required for licensure in Florida and has practiced massage therapy for a minimum of 10 years, and
 - a. Has, within the last five years of practical experience, had a minimum of two

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- years teaching experience in the subject matter to be offered, or
- b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
 - c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or
4. Has taught at a school of massage which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board for a minimum of two years, and
- a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
 - b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
 - c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject.
- (3) Each continuing education program presented to meet the requirements of paragraphs 64B7-28.009(2)(b), (c), (d) or subsection (3), F.A.C., shall:
- (a) Be taught via live classroom instruction or by correspondence, home study, video or digital media, or distance learning;
 - (b) Have stated learning objectives;
 - (c) Include a test graded by the provider if the course is not taught via live classroom instruction;
 - (d) Be instructed by a person who meets at least one of the following criteria:
 - 1. Holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or
 - 2. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
 - 3. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group, or at a massage therapy school, or
 - 4. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject.
- (4) The Board retains the right and authority to audit and/or monitor programs given by any provider. The Board will reject individual programs given by a provider if the provider has disseminated any false or misleading information in connection with the continuing education program, or if the program provider has failed to conform to and abide by the written agreement and rules of the Board.
- (5) One classroom hour of continuing education is defined as no less than 50 uninterrupted minutes of learning.
- (6) Presenters/moderators/instructors of courses shall not receive credit for courses they present.

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(7) A provider of Board approved programs must revise and update all course materials that are affected by changes occurring during the biennial renewal period. The Board will rescind approval of any program that is found to be obsolete, erroneous, and/or outside the scope of practice, or if the Board determines the program provider has violated the Board's rules or Chapter 456 or 480, F.S. The revised course materials must be submitted with the biennial renewal form and renewal fee.

(8) Provider registration numbers must be renewed biennially on or before August 31 of the biennial renewal year. The provider must return the renewal form provided by the department together with a renewal fee of \$50.00. If the renewal form and renewal fee are not received by the department on or before August 31 of the biennial year, the provider must submit a new application for approval of any continuing education programs offered for license renewal or initial licensure requirements, and, if any programs are approved, receive a new provider registration number.

(9) The following courses, that meet the criteria for approval under this section, are approved by the Board:

- (a) Organized and accepted courses of study offered by providers approved by the National Certification Board for Therapeutic Massage and Bodywork;
- (b) Organized courses offered by a Board Approved Massage School;
- (c) Continuing education courses offered by or sponsored by the Florida Board of Massage Therapy;
- (d) Continuing education courses sponsored by the Florida State Massage Therapy Association; and
- (e) Continuing education courses sponsored by the American Massage Therapy Association or the American Massage Therapy Association Florida Chapter.

Chapter 64B7-29 Apprenticeship

64B7-29.001 Definitions.

(1) "Apprentice" means a person meeting the qualifications stated in Rule 64B7-29.002, F.A.C., studying massage under the "direct supervision" of a "sponsoring massage therapist".

(2) "Sponsoring massage therapist" means a licensed massage therapist whose record with the Department indicates compliance with Chapters 456 and 480, F.S., and the rules promulgated thereunder. Further, a "sponsoring massage therapist" must have been engaged in the actual practice of massage for at least three (3) years prior to his "sponsorship".

(3) "Sponsorship" means the willingness of a "sponsoring massage therapist" to assume the responsibility for the "direct supervision" of only one apprentice by execution of the Sponsor's Apprentice Application.

(4) "Direct supervision" means the presence on the premises of the qualified massage establishment of the sponsoring massage therapist while an apprentice is participating in the apprentice program.

(5) "Qualified massage establishment" means a licensed massage establishment

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which, in addition to meeting the requirements of Chapter 64B7-26, F.A.C., is equipped with the following:

- (a) Tables.
- (b) Linen and storage areas.
- (c) Colonic equipment (required if colonic irrigation is taught).
- (d) Sterilization equipment if non-disposable colonic attachments are utilized.
- (e) Hydro-therapy equipment, which must include cold packs and hot packs. Such equipment shall be that which is generally acceptable in the massage profession.
- (f) Textbooks and teaching materials on the following subjects:
 1. Physiology,
 2. Anatomy,
 3. Theory of Massage,
 4. Hydro-therapy,
 5. Statutes and Rules on Massage Practice,
 6. Colonic Irrigation (if colonic equipment is present).

64B7-29.002 Qualification.

Persons seeking to be apprentices shall meet the following requirements:

- (1) The applicant must have secured the sponsorship of a sponsoring massage therapist.
- (2) The applicant must complete the application on form DH-MQA 1265, "Massage Apprentice Application,"
- (3) The applicant may not be enrolled simultaneously as a student in a Board-approved massage school.

64B7-29.003 Apprenticeship Training Program.

- (1) All apprenticeship training shall be conducted by the licensed sponsoring massage therapist, in a qualified massage establishment licensed pursuant to Section 480.043, F.S.
- (2) Apprenticeship training shall be 12 months in duration and shall be completed within 24 months of commencement. The apprentice shall complete within the first quarter of the apprenticeship training program:
 - (a) 100 hours of study in Physiology,
 - (b) 100 hours of study in Anatomy, and
 - (c) 15 hours of study in Statutes and Rules of Massage Practice.
- (3) Course of Study for Apprentices, which incorporates that required in paragraph (2)(a), shall be as follows:
 - (a) 300 hours of Physiology.
 - (b) 300 hours of Anatomy.
 - (c) 20 hours of Theory and History of Massage.
 - (d) 50 hours of Theory and Practice of Hydro-Therapy.
 - (e) 5 hours of Hygiene.
 - (f) 25 hours of Statutes and Rules of Massage Practice.
 - (g) 50 hours of Introduction to Allied Modalities.

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(h) 700 hours of Practical Massage.

(i) 3 hours of Board-approved HIV/AIDS instruction.

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

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

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

64B7-29.004 Termination.

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

(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in Chapter 64B7, F.A.C., is found subsequent to Department inspection of the "qualified massage establishment" as defined under Rule 64B7-29.001, F.A.C., the apprenticeship shall be tolled until such time as the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board, the Board will require that the "sponsor" and the "apprentice" appear before the Board for the purpose of determining compliance with the apprenticeship training program requirements of Rule 64B7-29.003, F.A.C.

64B7-29.006 Change of Sponsoring Massage Therapist.

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

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receive credit for training received from the prior sponsoring massage therapist.

64B7-29.007 Colonics Training through Apprenticeship.

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

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

Chapter 64B7-30 Discipline

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

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

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and circumstances:

- (1) Administering treatment in a negligent manner.
- (2) Violating the confidentiality of information or knowledge concerning a client.
- (3) Offering massage therapy at a sports event, convention or trade show without obtaining the written approval of the owner or property manager of the site at which the sports event, convention or trade show is held.
- (4) Failure to explain expected draping techniques to a client. As used in this rule, draping means towels, gowns, sheets or clothing.
- (5) Failure to appropriately drape a client. Appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients, unless the client gives specific informed consent to be undraped.

64B7-30.002 Disciplinary Guidelines.

(1) When the Board finds that an applicant, apprentice, or licensee whom it regulates under Chapter 480, F.S., has committed any of the acts set forth in Sections 480.041, 480.043, 480.0485, 480.046, 480.047 and 456.072, F.S., and/or Title 64B7, F.A.C., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines after consideration of the aggravating and mitigating factors set forth in subsection (4) of this rule. Discipline may include any of the following: letter of concern, reprimand, license with conditions, probation, suspension, revocation and/or fines.

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

(a) Licensee:

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

(b) Applicant:

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

(c) Massage Establishment:

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

(4) Based upon consideration of aggravating or mitigating factors, present in an individual case, the Board may deviate from the penalties for the violations charged. The Board shall consider as aggravating or mitigating factors the following:

(a) The danger to the public;

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- (b) The length of time since the violation;
 - (c) The number of times the licensee has been previously disciplined by the Board;
 - (d) The length of time licensee has practiced;
 - (e) The actual damage, physical or otherwise, caused by the violation;
 - (f) The deterrent effect of the penalty imposed;
 - (g) The effect of the penalty upon the licensee's livelihood;
 - (h) Any effort of rehabilitation by the licensee;
 - (i) The actual knowledge of the licensee pertaining to the violation;
 - (j) Attempts by licensee to correct or stop violation or refusal by licensee to correct or stop violation;
 - (k) Related violations against licensee in another state including findings of guilt or innocence, penalties imposed and penalties served;
 - (l) Actual negligence of the licensee pertaining to any violation;
 - (m) Penalties imposed for related offenses under subsections (1) and (2) above;
 - (n) Any other mitigating or aggravating circumstances.
- (5) When the Board finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it shall enter an order imposing one or more of the following penalties:
- (a) Refusal to certify, or to certify with restrictions, an application for a license.
 - (b) Suspension or permanent revocation of a license.
 - (c) Restriction of practice.
 - (d) Imposition of an administrative fine not to exceed \$10,000 for each Count or separate offense.
 - (e) Issuance of a reprimand.
 - (f) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify. Those conditions shall include requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.
 - (g) Corrective action.
- (6) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.
- (7) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to pursue or recommend the Department pursue collateral, civil or criminal actions when appropriate.
- (8) In any proceeding where the Board is authorized to take disciplinary action, the Board will also impose costs of investigation and prosecution as authorized by Section 456.072(4), F.S.
- (9) Whenever the Board, in accordance with this rule, imposes a monetary fine against a respondent in an Administrative Complaint, it shall also impose a

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suspension of the respondent's license until the fine is paid. However, to enable the respondent to pay the monies fine, the Board shall stay the imposition of the suspension for the same time period as specified, in accordance with Rule 64B7-24.016, F.A.C., for payment of the monies fine. If the fine is paid within the specified time, then the order of suspension shall not take effect; if the fine is paid after the order of suspension has taken effect, then the stay shall be lifted.

64B7-30.004 Citations.

(1) Definitions. As used in this rule:

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

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

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

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

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

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

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

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

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

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

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

(h) Failure of a massage therapist to notify the Board of a change of address as

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required by Section 456.035(1), F.S., shall result in a penalty of \$250.00.

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

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

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

(l) Failure to disclose conviction of or entry of a plea to a criminal offense on initial application for licensure for any licensee whose initial application was submitted prior to July 1, 2014, shall result in a fine of \$500.00 for each conviction or plea not disclosed on the application.

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

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

64B7-30.005 Mediation.

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

(1) Violation of Section 480.046(1)(d), F.S.: failure to include license number in an advertisement.

(2) Violation of Section 480.046(1)(e) or (j) or Section 480.047(1)(a), F.S.: practicing or allowing another person to practice on a delinquent license for 60 days or less.

(3) Violation of Section 480.046(1)(m), F.S., if the violation did not present an immediate threat to public health.

(4) Violation of Section 480.046(1)(n), F.S.: practicing at an establishment with a license delinquent 60 days or less.

(5) Violation of Section 456.072(1)(i), F.S.: failure to report a licensee known to be in violation.

(6) Violation of Section 456.072(1)(k), F.S.: failure to perform a legal obligation.

(7) Violation of Section 456.072(1)(u), F.S.: failure to comply with Sections 381.026 and 381.0261, F.S.

(8) Violation of Section 456.072(1)(x), F.S.: failure to report convictions to the Board.

(9) Violation of Rule 64B7-28.008, F.A.C.: failure to display a license or certificate.

(10) Violation of Rule 64B7-26.003(4), F.A.C.: failure to maintain insurance

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coverage.

(11) Violation of Section 456.035(1), F.S.: failure to notify change of address.

(12) Violation of Section 456.072(1)(t), F.S.: failure to properly identify licensee.

64B7-30.006 Notice of Noncompliance.

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

(1) Failure to provide written notice of licensee's current mailing address and place of practice in violation of Rule 64B7-28.015, F.A.C.

(2) Failure to obtain continuing education in HIV/AIDS in violation of Section 456.034, F.S.

(3) Failure to have proof of insurance available at an establishment as required by subsection 64B7-26.003(4), F.A.C.

(4) Failure to include license number or numbers in any advertisement as required by Section 480.0465, F.S.

64B7-30.008 Probationary Conditions and Definitions.

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

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

(3) Provisions governing all supervised or monitored practitioners.

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

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

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

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

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

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

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

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

Chapter 64B7-33 Advertisement

64B7-33.001 Advertisement.

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

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

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

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

Chapter 456 Health Professions and Occupations: General Provisions

The following is an abridged version of the Florida Statutes, Chapter 456.

To read the statutes in their entirety, please go to:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0456/0456.html

456.032 Hepatitis B or HIV carriers

(1) The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle,

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counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

456.035 Address of record

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 456.076.

456.038 Renewal and cancellation notices

(1) At least 90 days before the end of a licensure cycle, the department shall:

- (a) Forward a licensure renewal notification to an active or inactive status licensee at the licensee's last known address of record with the department.
- (b) Forward a notice of pending cancellation of licensure to a delinquent licensee at the licensee's last known address of record with the department.

(2) Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department if there is no board.

456.052 Disclosure of financial interest by production

(1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:

- (a) The existence of the investment interest.
- (b) The name and address of each applicable entity in which the referring health care provider is an investor.
- (c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.
- (d) The names and addresses of at least two alternative sources of such items or services available to the patient.

(2) The physician or health care provider shall post a copy of the disclosure forms in a conspicuous public place in his or her office.

(3) A violation of this section shall constitute a misdemeanor of the first degree. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the respective board.

456.054 Kickbacks prohibited

(1) As used in this section, the term "kickback" means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

(2) It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

(3) Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

456.063 Sexual misconduct; disqualification for license, certificate, or registration

(1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

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(a) Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(b) Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct. For purposes of this subsection, a licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

456.067 Penalty for giving false information

In addition to, or in lieu of, any other discipline imposed pursuant to s. 456.072, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from the department, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree.

456.0721 Practitioners in default on student loan or scholarship obligations; investigation; report.

The Department of Health shall obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations. The department shall obtain from the United States Department of Health and Human Services a list of default health care practitioners each month, along with the information necessary to investigate a complaint. The department may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to the practitioner.

456.41 Complementary or alternative health care treatments

(1) It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain, injury, deformity, or other physical or mental condition. It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature

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that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2) Definitions

(a) “Complementary or alternative health care treatment” means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b) “Health care practitioner” means any health care practitioner as defined in s. 456.001(4).

(3) Communication of Treatment Alternatives - A health care practitioner who offers to provide a patient with a complementary or alternative health care treatment must inform the patient of the nature of the treatment and must explain the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment option. In compliance with this subsection:

(a) The health care practitioner must inform the patient of the practitioner’s education, experience, and credentials in relation to the complementary or alternative health care treatment option.

(b) The health care practitioner may, in his or her discretion, communicate the information orally or in written form directly to the patient or to the patient’s legal representative.

(c) The health care practitioner may, in his or her discretion and without restriction, recommend any mode of treatment that is, in his or her judgment, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of his or her license.

(4) Records - Every health care practitioner providing a patient with a complementary or alternative health care treatment must indicate in the patient’s care record the method by which the requirements of subsection (3) were met.

Supplemental Information

Florida Board of Massage Therapy FAQs - <http://floridasmassagetherapy.gov/massage-therapy-faqs/>

Florida Massage Therapy Continuing Education FAQs - <http://floridasmassagetherapy.gov/continuing-education-faqs/>

References

Chapter 480, Florida Statutes: Massage Therapy. Accessed on May 15, 2017 from:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0480/0480ContentsIndex.html&StatuteYear=2016&Title=%2D%3E2016%2D%3EChapter%20480

Florida Board of Massage Therapy Rules. Accessed on May 15, 2017 from:

<https://www.flrules.org/gateway/Organization.asp?OrgNo=64b7>

Chapter 456, Florida Statutes: Health Professions and Occupations: General Provisions. Accessed on May 15, 2017 from:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0456/0456.html

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Post-Test

1. Which of the following is also known as the “Florida Massage Therapy Practice Act”? (p. 3)
 - A. Chapter 480 of the Florida Statutes
 - B. Chapter 456 of the Florida Statutes
 - C. Chapter 64B7 of the Florida Administrative Code
 - D. Subsection 11-30 of the Florida Department of Health Code

2. Sexual activity between a massage therapist and client is _____. (p. 8)
 - A. allowed if no direct contact occurs between the individuals
 - B. unethical, but legally permissible
 - C. not specifically addressed in the Florida laws or rules
 - D. strictly prohibited

3. Upon the request of a law enforcement officer, each massage establishment employee and any person performing a massage in the establishment must immediately produce _____. (p. 9)
 - A. a current certificate of good health
 - B. OSHA training documentation
 - C. a valid form of government identification
 - D. CPR certification

4. Florida licensed massage therapists must display at each location where they practice a current state license and _____. (p. 16)
 - A. a copy of their graduation diploma
 - B. an attached 2” x 2” photo of the licensee
 - C. evidence of either AMA or NCBTMB certification
 - D. a current Department of Health inspection report

5. Which of the following is NOT a biennial CE requirement for Florida licensed massage therapists? (p. 16-17)
 - A. 24 hours minimum of total continuing education
 - B. At least 12 hours of hands-on instruction relevant to and focused on massage technique
 - C. 2 hours each of Professional Ethics; Florida Laws & Rules; and Prevention of Medical Errors
 - D. 3 hours of infection control instruction

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6. How many apprentices may a sponsoring massage therapist directly supervise? (p. 20)
 - A. One
 - B. Two
 - C. Three
 - D. Four

7. Appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients. Undraping of these areas _____. (p. 24)
 - A. requires specific informed consent by the client
 - B. is permitted at the sole discretion of the massage therapist
 - C. is never permitted under any circumstance
 - D. must be performed by the client

8. Which of the following does the Board designate as a citation violation with an associated \$500 penalty? (p. 26-27)
 - A. Failing to display a license or certificate.
 - B. Refusing to allow the Department to inspect the business premises of the licensee during regular business hours.
 - C. Failing to keep the equipment and premises of a massage establishment in clean and sanitary condition.
 - D. Failure to notify the Board of a change of address.

9. Each massage therapist or massage establishment must include their _____ in any advertisement of massage services. (p. 29)
 - A. license number
 - B. address
 - C. full legal name
 - D. phone number

10. Kickbacks are _____. (p. 31)
 - A. a legal compensation arrangement between a health care provider and a referral source.
 - B. illegal only when there is a direct exchange of money for referrals
 - C. illegal under all circumstances
 - D. an effective marketing tool utilized by most health care practitioners to build professional relationships.

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