

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: <https://floridasmassagetherapy.gov/resources/>

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 therapy 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 therapy is a therapeutic health care practice, 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 therapy in the state; however, restrictions shall be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market. Further, consumer protection for both health and economic matters shall be afforded the public through legal remedies provided for in this act.

480.033 Definitions

- (1) “Apprentice” means a person approved by the board to study colonic irrigation under the instruction of a licensed massage therapist practicing colonic irrigation.
- (2) “Board” means the Board of Massage Therapy.
- (3) “Board-approved massage therapy school” means a facility that meets minimum standards for training and curriculum as determined by rule of the board and that is licensed by the Department of Education pursuant to chapter 1005 or the equivalent licensing authority of another state or is within the public school system of this state or a college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program.
- (4) “Colonic irrigation” means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.
- (5) “Department” means the Department of Health.
- (6) “Designated establishment manager” means a massage therapist who holds a clear and active license without restriction, who is responsible for the operation of a massage establishment in accordance with the provisions of this chapter, and who is designated the manager by the rules or practices at the establishment.
- (7) “Establishment” or “massage establishment” means a site or premises, or portion thereof, wherein a massage therapist practices massage therapy.

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(8) “Establishment owner” means a person who has ownership interest in a massage establishment. The term includes an individual who holds a massage establishment license, a general partner of a partnership, an owner or officer of a corporation, and a member of a limited liability company and its subsidiaries who holds a massage establishment license.

(9) “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.

(10) “Massage therapist” means a person licensed as required by this act, who performs massage therapy, including massage therapy assessment, for compensation.

(11) “Massage therapy” means the manipulation of the soft tissues of the human body with the hand, foot, knee, arm, or elbow, regardless of whether 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.

(12) “Massage therapy assessment” means the determination of the course of massage therapy treatment.

480.035 Board of Massage Therapy

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

(2) Five members of the board shall be licensed massage therapists and shall have been engaged in the practice of massage therapy 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. The appointments are subject to confirmation by the Senate.

(3) The Governor may at any time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over after the expiration of her or his term until her or his successor has been duly appointed and qualified. No board member shall serve more than two terms, whether full or partial.

(4) The board shall, in the month of January, elect from its number a chair and a vice chair.

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

(6) Board members shall receive per diem and mileage as provided in s. 112.061 from the place of residence to the place of meeting and return.

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(7) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

480.041 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 high school equivalency diploma;
- (b) Has completed a course of study at a board-approved massage therapy school that meets standards adopted by the board; and
- (c) Has received a passing grade on a national examination designated by the board.

(2) Every person desiring to be examined for licensure as a massage therapist must apply to the department in writing upon forms prepared and furnished by the department. Such applicants are subject to s. 480.046(1).

(3) An applicant must submit to background screening under s. 456.0135.

(4) 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 therapy.

(5) The board shall adopt rules:

- (a) Establishing a minimum training program for apprentices.
- (b) Providing for educational standards, examination, and certification for the practice of colonic irrigation, as defined in s. 480.033, by massage therapists.
- (c) Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

- (a) Section 787.01, relating to kidnapping.
- (b) Section 787.02, relating to false imprisonment.
- (c) Section 787.025, relating to luring or enticing a child.
- (d) Section 787.06, relating to human trafficking.
- (e) Section 787.07, relating to human smuggling.
- (f) Section 794.011, relating to sexual battery.
- (g) Section 794.08, relating to female genital mutilation.
- (h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
- (i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
- (j) Section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

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- (k) Section 796.05, relating to deriving support from the proceeds of prostitution.
- (l) Section 796.07(4)(a)3., relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
- (m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- (n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- (o) Section 827.071, relating to sexual performance by a child.
- (p) Section 847.0133, relating to the protection of minors.
- (q) Section 847.0135, relating to computer pornography.
- (r) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
- (s) Section 847.0145, relating to the selling or buying of minors.
- (8) A person issued a license as a massage apprentice before July 1, 2020, may continue that apprenticeship and perform massage therapy as authorized under that license until it expires. Upon completion of the apprenticeship, which must occur before July 1, 2023, a massage apprentice may apply to the board for full licensure and be granted a license if all other applicable licensure requirements are met.

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) An establishment owner shall comply with the background screening requirements under s. 456.0135. However, if a corporation submits proof of having more than \$250,000 of business assets in this state, the department shall require the establishment owner, the designated establishment manager, and each individual directly involved in the management of the establishment to comply with the background screening requirements under s. 456.0135. The board may adopt rules regarding the type of proof that may be submitted by a corporation.
- (3) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.

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(4) Any person, firm, or corporation desiring to operate a massage establishment in the state shall submit to the department an application, upon forms provided by the department, accompanied by any information requested by the department and an application fee.

(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 an establishment owner or a designated establishment manager or, for a corporation that has more than \$250,000 of business assets in this state, an establishment owner, a designated establishment manager, or any individual directly involved in the management of the establishment has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in s. 796.07 or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

- (a) Section 787.01, relating to kidnapping.
- (b) Section 787.02, relating to false imprisonment.
- (c) Section 787.025, relating to luring or enticing a child.
- (d) Section 787.06, relating to human trafficking.
- (e) Section 787.07, relating to human smuggling.
- (f) Section 794.011, relating to sexual battery.
- (g) Section 794.08, relating to female genital mutilation.
- (h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
- (i) Former s. 796.035, relating to selling or buying of minors into prostitution.
- (j) Section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
- (k) Section 796.05, relating to deriving support from the proceeds of prostitution.
- (l) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- (m) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.

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- (n) Section 827.071, relating to sexual performance by a child.
- (o) Section 847.0133, relating to the protection of minors.
- (p) Section 847.0135, relating to computer pornography.
- (q) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
- (r) Section 847.0145, relating to the selling or buying of minors.
- (9)(a) A massage establishment license issued to an individual, a partnership, a corporation, a limited liability company, or another entity may not be transferred from the licensee to another individual, partnership, corporation, limited liability company, or another entity.
- (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. The board is further authorized to adopt rules governing delinquent renewal of licenses and may impose penalty fees for delinquent renewal.
- (11) The board is authorized to adopt rules governing the periodic inspection of massage establishments licensed under this act.
- (12) As a condition of licensure, a massage establishment must have a designated establishment manager. The designated establishment manager is responsible for complying with all requirements related to operating the establishment in this section and shall practice at the establishment for which he or she has been designated. Within 10 days after termination of a designated establishment manager, the establishment owner must notify the department of the identity of another designated establishment manager. Failure to have a designated establishment manager practicing at the location of the establishment shall result in summary suspension of the establishment license as described in s. 456.073(8) or s. 120.60(6). An establishment licensed before July 1, 2019, must identify a designated establishment manager by January 1, 2020.
- (13) By January 1, 2021, a massage establishment shall implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency and shall post in a conspicuous place in the establishment which is accessible to employees a sign with the relevant provisions of the reporting procedure.
- (14) Except for the requirements of subsection (13), this section does not apply to a physician licensed under chapter 457, chapter 458, chapter 459, or chapter 460 who employs a licensed massage therapist to perform massage therapy on the physician's patients at the physician's place of practice. This subsection does not restrict investigations by the department for violations of chapter 456 or this chapter.

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480.046 Grounds for disciplinary action by the board.—

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

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

(b) Having a license to practice massage therapy 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 therapy or to the ability to practice massage therapy. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

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

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

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

(h) Being unable to practice massage therapy 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, upon probable cause, may 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, constitutes 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 therapy with reasonable skill and safety to clients.

(i) Gross or repeated malpractice or the failure to practice massage therapy 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.

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- (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 therapy at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by board rule, may provide massage therapy services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.
 - (p) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
- (2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).
- (3) The board shall revoke or suspend the license of a massage establishment licensed under this act, or deny subsequent licensure of such an establishment, if any of the following occurs:
- (a) The license has been obtained by fraud or misrepresentation.
 - (b) The holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of a massage establishment.
 - (c) The establishment owner, the designated establishment manager, or any individual providing massage therapy services for the establishment has had the entry in any jurisdiction of:
 - 1. A final order or other disciplinary action taken for sexual misconduct involving prostitution;
 - 2. A final order or other disciplinary action taken for crimes related to the practice of massage therapy involving prostitution; or
 - 3. A conviction or a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in s. 796.07.
- (4) The establishment owner who has been the subject of disciplinary action under subsection (3) may not reapply for an establishment license and may not transfer such license pursuant to s. 480.043.
- (5) A designated establishment manager who has been the subject of disciplinary action under section (3) may not reapply for a license.

480.0465 Advertisement

Each massage therapist or massage establishment licensed under this act shall include the number of the license in any advertisement of massage therapy services appearing in a newspaper, airwave transmission, telephone directory, or other advertising medium. Pending licensure of a new massage establishment

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under s. 480.043(7), the license number of a licensed massage therapist who is an owner or principal officer of the establishment may be used in lieu of the license number for the establishment.

480.047 Penalties

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this chapter or unless otherwise specifically exempted from licensure under this chapter.

(b) Operate any massage establishment unless it has been duly licensed as provided herein, except that nothing herein shall be construed to prevent the teaching of massage in this state at a board-approved massage school.

(c) Permit an employed person to practice massage unless duly licensed as provided herein.

(d) Present as his or her own the license of another.

(e) Allow the use of his or her license by an unlicensed person.

(f) Give false or forged evidence to the department in obtaining any license provided for herein.

(g) Falsely impersonate any other license holder of like or different name.

(h) Use or attempt to use a license that has been revoked.

(i) Otherwise violate any of the provisions of this act.

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

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.

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480.0485 Sexual misconduct in the practice of massage therapy

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

480.0535 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://floridasmassagetherapy.gov/resources/>

Chapter 64B7-25 Examination

64B7-25.001 Examination Requirements.

- (1) The Department shall issue a license by examination to a person who:
- (a) Pays to the Department the initial licensure fee set forth in Rule 64B7-27.100, F.A.C.;
 - (b) Submits a completed application on form DH-MQA 1115, "Application for Massage Therapist License," (05/2020). The form and the attached instructions are incorporated herein by reference and may be obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/massage-app.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-12647>. To apply on-line, visit <https://flhealthsource.gov/mqa-services>;
 - (c) Provides proof of graduation per Rule 64B7-32.002, F.A.C., from a Board-approved massage school as defined in Section 480.033(9). F.S.;
 - (d) Presents certification to the Board of successful completion of an approved examination for licensure; and,
 - (e) Submits to the background screening provisions as set forth in Section 456.0135, F.S.
- (2) Prior to the practice of colonic irrigation, any licensed massage therapist must be certified. The Department shall issue certification to practice colonic irrigation to a person who:
- (a) Pays to the Department the certification fee set forth in Rule 64B7-27.100, F.A.C.;
 - (b) Submits a completed application on form DH-MQA 1247 "Application for Colonic Irrigation Certification" (Rev. 05/2020). The form is incorporated herein by reference and may be obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/massage-colon-certification.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-12648>. To apply on-line, visit <http://flhealthsource.gov/mqa-services>;
 - (c) Provides proof of completion of a training program in colonic irrigation at a Board approved massage school per Rule 64B7-32.005, F.A.C., or a training program equal to or more stringent than the colonic irrigation requirements of subsection 64B7-32.005(2), F.A.C., with an approved provider or school in another state, territory, or jurisdiction, or a colonic irrigation apprenticeship per Rule 64B7-29.007, F.A.C.; and,
 - (d) Present certification to the Board of successful completion of an approved examination for colonic irrigation.
- (3) The Board approves the following examinations for licensure:
- (a) The Massage and Bodywork Licensing Examination (MBLEx) administered by

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the Federation of State Massage Therapy Boards;

(b) National Certification Board for Therapeutic Massage and Bodywork Examination;

(c) National Certification Examination for Therapeutic Massage;

(d) National Exam for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork; and

(e) The state examination in Florida, offered prior to 1996.

(4) The Board approves the following examination for certification in colonic irrigation: The National Board for Colon Hydrotherapy Examination (NBCHE).

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.

Chapter 64B7-26 Massage Establishments

64B7-26.001 Definitions.

(1) "Ownership entity" means the entity to whom a massage establishment license is issued. An ownership entity may be a sole proprietor, a partnership as defined in Section 620.8101(7), F.S., a limited liability company as defined in Section 605.0102(36), F.S., or another entity formed under the law of the jurisdiction in which the entity resides.

(2) "Massage establishment owner" means a natural person who has an ownership interest in a massage establishment, including an individual who holds

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a massage establishment license, a general partner of a partnership, an owner or officer of a corporation, a member of a limited liability company and its subsidiaries who hold a massage establishment license, or a person who has been identified as having an ownership interest by an entity formed under the law of the jurisdiction in which the entity resides.

(3) "Interested party" means an individual directly involved in the management of a massage establishment whose ownership entity is a corporation having more than \$250,000 in business assets in this state.

(4) "Designated establishment manager" means a massage therapist who holds a clear and active license without restriction, who is responsible for the operation of a massage establishment in accordance with Chapters 456 and 480, F.S. and related rules, who is designated the manager by the rules or practices at the establishment.

(5) "Doing business as name" means the name under which the massage establishment does business. This may be the ownership entity name, or a fictitious name, as registered with the Division of Corporations.

64B7-26.002 Licensure of Massage Establishments.

(1) Each massage 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, "Application for Massage Establishment License" (Rev. 01/2021), incorporated herein by reference, together with the fee set forth in subsection 64B7-27.100(2), F.A.C. The form may be obtained from the Board office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/mt-establishment-app.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-13316>. To apply online, visit <https://flehealthsource.gov/mqa-services>.

(2) A massage establishment license may not be issued until a passing inspection result is received by the department which demonstrates that the proposed massage establishment is to be used for "massage" as defined in Section 480.033(3), F.S. and that the proposed massage establishment is in compliance with Chapters 456 and 480, F.S. and related rules.

(3) The massage establishment applicant shall submit proof confirming property damage and bodily injury liability insurance coverage for the proposed massage establishment.

64B7-26.003 Massage Establishment Operations.

(1) Each establishment must meet the following facility requirements:

(a) Comply with all municipal building code requirements.

(b) Provide restroom facilities, which include at a minimum:

1. One functioning toilet and one sink with running water.
2. Toilet tissue.
3. Soap dispenser with soap or other hand sanitizing agent.
4. Sanitary towels for hand drying, or another hand drying device, such as a wall-mounted electric blow dryer.

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5. Waste receptacle.

(c) Centralized restroom facilities within three hundred feet of the massage establishment may be substituted for establishments which reside in buildings that are so equipped.

(d) When equipped with a whirlpool bath, sauna (including wet, dry and infrared), steam cabinet or steam room, provide shower facilities which include at a minimum:

1. One shower with running hot and cold water.
2. Separation of shower facility from other facilities by means of a curtain or other visual divider.

(e) Provide lavatory facilities in each treatment room, or within twenty feet of each treatment room which include at a minimum:

1. A sink with running water, soap dispenser with soap, and sanitary towels for hand drying or another hand drying device, such as a wall-mounted electric blow dryer, or
2. Hand sanitizer or another chemical germicidal designed to disinfect without the use of running water.

(f) Maintain all facilities in good repair, well-lighted and properly ventilated.

(2) Each establishment must meet the following safety requirements:

(a) Maintain a fire extinguisher on premises, which meets standards for inspection and maintenance as required by Rule 69A-21.237, F.A.C., effective October 20, 1993, incorporated by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-11510>.

(b) Provide for safe storage and removal of flammable materials.

(3) Each establishment must meet the following sanitary requirements:

(a) Provide for the removal of refuse.

(b) Use effective control measures to prevent entry and harborage of vermin and pests.

(4) Each establishment must meet the following requirements for equipment and supplies used in the practice of massage therapy:

(a) All equipment intended for use in the performance of massage services must be maintained in a safe and sanitary condition.

(b) Massage table surface must be made of, or covered by, a non-porous, non-absorbent material that is free from rips or tears.

(c) Non-porous, non-absorbent massage table surface or covering must be disinfected after each client.

(d) If the massage table is additionally covered by sheets, towels, or other coverings in addition to a non-porous, non-absorbent material, such covering must be changed after each client.

(e) Maintain a sufficient supply of clean drapes for each client while massage services are performed.

“Drapes,” as used herein, may include, but shall not be limited to: towels, gowns, sheets, linens, and clothing.

(f) Drapes and other materials furnished for use by the client must be laundered before reuse.

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(5) Establishments which provide colonic irrigation must:

- (a) Maintain colonic irrigation equipment in safe and sanitary condition.
- (b) Maintain sterilization equipment if non-disposable colonic attachments are used.

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

64B7-26.0035 Designated Establishment Managers.

(1) The Designated Establishment Manager (DEM) must practice in the massage establishment and is responsible for ensuring that the massage establishment is in compliance with the law, Chapters 456 and 480, F.S., and Division 64B7, F.A.C.

(2) A Florida licensed massage therapist serving as DEM of a massage establishment shall ensure that establishment is operating in compliance with the laws and rules governing the practice of massage therapy, including;

(a) The serving DEM must ensure that every massage therapist, practicing in the massage establishment is duly licensed, current and active;

(b) The serving DEM must ensure that the massage establishment remains in compliance with Section 480.0535(2)(a)2, F.S., concerning documentation required while working in an establishment;

(c) The serving DEM must ensure that each licensed massage therapist has unrestricted access to their personal valid government identification to comply with Section 480.0535(1), F.S.;

(d) The serving DEM must, upon a report of possible violations of Section 480.0485, F.S., and/or Rule 64B7-26.010, F.A.C., related to sexual misconduct, report the incident to the Board within three days;

(e) The serving DEM must ensure compliance with the provisions of Sections 456.0341, and 480.043, F.S., regarding human trafficking, including ensuring that all practitioners are aware of the establishment's procedure for reporting suspected human trafficking; and

(f) The serving DEM must ensure that the massage establishment practices in a manner consistent with law and rules, preventing discipline under the provisions of Sections 456.072, and 480.046, F.S., and ensuring the massage establishment notifies the Board that specific DEM is no longer serving as the establishment's DEM, and a replacement DEM is named, within 10 days.

(3) The DEM must notify the Board, within 3 days, if he or she is no longer serving as the DEM for a massage therapy 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

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64B7-26.003, F.A.C., are satisfied.

64B7-26.005 Periodic Inspections.

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

64B7-26.007 Massage Establishment Change of Name/Location

When there is no change of ownership, the massage establishment may change the name or location of the establishment.

(1) To change only the name of a massage establishment, the massage establishment owner shall submit a completed Form DH-MQA 1264 "Application for Massage Establishment Change of Name/Location" (07/19), incorporated herein by reference, accompanied by the application fee provided in paragraph 64B7-27.100(2)(d), F.A.C. The form may be obtained from the Board office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://www.floridasmassage.com> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-11376>. An inspection is not required when only a massage establishment's name is changed.

(2) To change only the location of the massage establishment, the massage establishment owner shall submit a completed Form DH-MQA 1264 "Application for Massage Establishment Change of Name/Location" (Rev. 07/19), accompanied by the application fee provided in paragraph 64B7-27.100(2)(e), F.A.C. The massage establishment may not change locations until a passing inspection result has been received by the department which demonstrates that the massage establishment is to be used for "massage" as defined in Section 480.033(3), F.S., is in compliance with Chapters 456 and 480, F.S. and related rules, and the change of location is approved.

(3) To change the location and name of the establishment, the massage establishment owner shall submit a completed Form DH-MQA 1264 "Application for Massage Establishment Change of Name/Location" (07/19), accompanied by the application fee provided in paragraph 64B7-27.100(2)(d), F.A.C. The massage establishment may not change locations until a passing inspection result has been received by the department which demonstrates that the massage establishment is to be used for "massage" as defined in Section 480.033(3), F.S., is in compliance with Chapters 456 and 480, F.S. and related rules, and the change of location is approved.

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

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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.

Each massage establishment license must be renewed by the owner of the establishment on or before August 31 of every odd year.

(1) To renew a massage establishment license, the massage establishment owner who holds the license must:

(a) Submit the appropriate form as required by subsection 64B-9.001(1), F.A.C., and

(b) Submit the renewal fee for massage establishments specified in Rule 64B7-27.100, F.A.C.

(2) A massage establishment license that is not renewed in accordance with subsection 64B-9.001(4), F.A.C., and these rules shall be considered delinquent.

(3) To renew a delinquent massage establishment license, the massage establishment owner who holds the license must:

(a) Submit the appropriate form as required by subsection 64B-9.001(1), F.A.C., and

(b) Submit the renewal fee for massage establishments and delinquent fee specified in Rule 64B7-27.100, F.A.C.

(4) If a massage establishment is operating with a delinquent license, the establishment is in violation of Section 480.047(1)(b), F.S., and is subject to criminal penalties as provided in Section 480.047(2), F.S.

(5) A massage establishment license that is considered delinquent shall be considered null and void if the massage establishment owner does not renew the license within six (6) months after the license becomes delinquent.

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

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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.

64B7-28.0043 Biennial Renewal of Massage Therapist License

Each massage therapist must renew their license on or before August 31 of every odd year in accordance with subsection 64B-9.001(4), F.A.C.

(1) To renew a massage therapist license, the licensee must:

(a) Have completed the continuing education which was required during each biennial cycle or elect inactive status at the time of renewal, or hold a license that is already in inactive status, and

(b) Submit the appropriate form; and

(c) Submit the renewal fee for massage therapists

(2) A license that is not renewed shall be considered delinquent

(3) A license that is not renewed for two consecutive biennial cycles shall be considered null and void without further action by the Board

(4) A licensee whose license is in active status may choose inactive status

(a) To choose inactive status at the time of renewal, the licensee must submit the

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appropriate form, the renewal fee, and if delinquent, the delinquent license fee.

(b) To choose inactive status at any other time, the licensee must submit a written request, along with the change in status fee and if delinquent, the delinquent license fee

(5) A licensee may choose retired status.

(a) To choose retired status at the time of renewal, the licensee must submit the appropriate form and the retired status fee.

(b) To choose retired status at any other time, the licensee must submit a written request, along with the retired status fee and change in the status fee.

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.

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.

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(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 Required Continuing Education.

(3) During the first biennial renewal cycle, the licensee shall complete:

(a) Two instruction hours in prevention of medical errors.

(b) One hour in human trafficking awareness.

(c) One instruction hour for each month or partial month licensed. The overall number of required hours for renewal in the first biennial renewal cycle shall include the required hours of instruction in prevention of medical errors and human trafficking awareness.

(4) During each subsequent biennial renewal cycle, the licensee shall complete:

(a) Two instruction hours in prevention of medical errors.

(b) Two instruction hours in the laws and rules which govern the practice of massage therapy.

(c) Two instruction hours in professional ethics.

(d) One hour in human trafficking awareness.

(e) Twelve classroom hours, taught in an in-person setting, which must include hands-on instruction or demonstration, and must have stated learner objectives which are relevant to and focused on massage therapy techniques, skills, and protocols.

(f) Five additional instruction hours, including but not limited to courses in communication with clients and other professionals, psychological dynamics of the client-therapist relations, risk management, charting, documentation, record keeping, infection control, or massage practice management.

(5) All continuing education must be completed with an approved provider.

(6) A licensee may substitute the following activities for the requirements above:

(a) Up to two hours of instruction in laws and rules may be substituted for two hours of continuous attendance at an in-person meeting of the Board, provided that the licensee signs in to demonstrate attendance and does not have an item scheduled on the agenda.

(b) Up to two hours of instruction in professional ethics may be substituted for two hours of continuous attendance at an in-person meeting of the Board, provided that the licensee signs in to demonstrate attendance and does not have an item scheduled on the agenda.

(c) Up to six hours of classroom instruction which is relevant to and focused on massage therapy techniques, skills, and protocols as defined in Section 480.033(3), F.S., or up to six hours of general instruction may be substituted for the performance of pro-bono services, on an hour-for-hour basis, provided that:

1. The proposed services are to be performed for indigent or underserved

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populations or in areas of critical need within the state of Florida as recognize by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services (01/2020), 12159 <http://www.flrules.org/Gateway/reference.asp?No=Ref-12158>, <https://www.federalregister.gov/documents/2020/01/17/2020-00858/annual-update-of-the-hhs-poverty-guidelines> hereby adopted and incorporated by reference, in connection with a tax-exempt organization under s. 501(c) of the Internal Revenue Code, in response to a disaster as defined in Section 252.34(2), F.S., for first responders as defined in Section 196.091(6)(c)1., or 2. The licensee submits DH-MQA 1243 Request for Approval of Continuing Education for Pro Bono Services For the Biennial Renewal Period of _____ (10/2019) at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12159>, hereby adopted and incorporated by reference, and is approved to offer the pro bono services specified therein during the biennial cycle in which the form is submitted.

3. The licensee submits DH-MQA 1244 Statement of Performance of Continuing Education Credits for Preapproved Pro Bono Services for the Biennial Renewal Period of (10/2019) at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12162>, hereby adopted and incorporated by reference, demonstrating performance of approved pro bono services.

(7) A licensee shall be exempt from all licensure renewal provisions under this section during an absence from the state due to their spouse's duties with the armed forces if the licensee:

(a) Presents satisfactory proof that they are the spouse of a member of the Armed Forces; a copy of the spouse's military orders and marriage certificate, and that they were caused to be absent from Florida for a period of at least six consecutive months because of the spouse's duties, and

(b) Was in good standing with the Board of Massage and entitled to practice massage in Florida when the absence began.

(8) A licensee shall not receive credit for courses they offer as an approved provider or approved instructor.

Chapter 64B7-29 Apprenticeship

64B7-29.001 Definitions.

(1) "Massage therapy apprentice" means a person who is not enrolled in a board approved massage school who is studying massage therapy under the direct supervision of a sponsor.

(2) "Colonic irrigation apprentice" means a licensed massage therapist who is studying colonic irrigation under the direct supervision of a sponsor.

(3) "Sponsor" means a licensed massage therapist who has no disciplinary action taken against their license and has been engaged in the practice of massage for at least three years prior to sponsorship. If the apprenticeship includes training in colonic irrigation, the sponsor must be certified to practice colonic irrigation under subsection 64B7-25.001(2), F.A.C., and must have been engaged in the practice

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of colonic irrigation for a minimum of three years.

(4) "Massage apprentice sponsorship" means assumption of the responsibility to provide training pursuant to Rule 64B7-29.003, F.A.C., under the sponsor's direct supervision.

(5) "Colonic irrigation apprentice sponsorship" means assumption of the responsibility to provide training pursuant to Rule 64B7-29.007, F.A.C., under the sponsor's direct supervision.

(6) "Direct supervision" means the physical presence of the sponsor in the qualified establishment during training.

(7) "Qualified establishment" means a massage establishment licensed pursuant to Section 480.043, F.S., which, in addition to meeting the requirements of Chapter 64B7-26, F.A.C., is equipped for apprenticeship training.

64B7-29.003 Apprenticeship Training Program.

(1) All apprenticeship training shall be conducted by the sponsor, in a qualified establishment.

(2) The qualified establishment must be equipped with the following during massage therapy apprenticeship training:

- (a) Massage tables, and
- (b) Linens and linen storage areas, and
- (c) Hydrotherapy equipment, including cold and hot packs, and
- (d) Textbooks and teaching materials on the following subjects;

- 1. Anatomy
- 2. Physiology
- 3. Theory of Massage
- 4. Hydrotherapy
- 5. Chapters 456 and 480, F.S.
- 6. Rule Division 64B7, F.A.C.

(3) Apprenticeship training shall be completed in four quarters of three months each, and must be completed within 12 months. Apprenticeship training must be completed at a rate of no more than 500 hours per quarter.

(4) The course of study for a massage apprentice must include:

- (a) 300 hours of Anatomy
- (b) 300 hours of Physiology
- (c) 20 hours of Basic Massage Theory and History
- (d) 50 hours of Theory and Practice of Hydrotherapy
- (e) 25 hours of Florida Laws and Rules regulating the practice of massage therapy
- (f) 50 hours of Allied Modalities
- (g) 700 hours of Clinical Practicum
- (h) 3 hours of HIV/AIDS instruction.

(5) The massage apprentice must complete within the first quarter:

- (a) 100 hours of Anatomy
- (b) 100 hours of Physiology
- (c) 15 hours of Florida Laws and Rules regulating the practice of massage

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therapy.

(6) The sponsor must report completed training hours to the Department quarterly. Each quarterly report must include the following:

- (a) The name and certificate number of the apprentice
- (b) The name and license number of the sponsor
- (c) The name and license number of the qualified establishment
- (d) The starting and ending date of the quarter
- (e) The number of hours completed in each area of the course of study in the quarter
- (f) The total number of hours completed in each area of the course of study during the apprenticeship
- (g) The signature of the sponsor.

(7) Massage therapy apprenticeship training is complete once four quarterly reports have been submitted to the Department that demonstrate completion of the training program.

64B7-29.004 Change of Sponsor; Termination.

(1) If a sponsor is unable to continue sponsorship and an apprentice wishes to continue training:

- (a) The sponsor or the apprentice must notify the Department of the change of sponsor within 30 days;
- (b) The apprentice must secure another sponsor and notify the Department of the new sponsorship; and
- (c) Apprenticeship may not continue until the change of sponsor is complete.

(2) The apprentice shall receive credit for prior training following a change of sponsor if training was reported to the Department prior to or coincident with the change of sponsor.

(3) If an apprentice or sponsor terminates training, the sponsor must notify the Department within 30 days.

(4) If disciplinary action is taken against the sponsor or qualified establishment, the apprenticeship shall be terminated.

64B7-29.007 Colonics Training through Apprenticeship.

(1) The applicant must complete form DH-MQA 1265, "Application for Colonic Irrigation Apprenticeship," 05/2020, and pay the fee set forth in paragraph 64B7-27.100(1)(b), F.A.C. The form is incorporated herein by reference and may be obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/colon-appren-app.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-12606>.

(2) The qualified establishment must be equipped with the following during colonic irrigation apprenticeship training:

- (a) Colonic irrigation textbooks and teaching materials, and
- (b) Colonic irrigation equipment, and
- (c) Sterilization equipment, if non-disposable attachments are used.

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- (3) The colonic irrigation apprentice shall complete colonic irrigation training within 12 months of commencement.
- (4) The training for a colonic irrigation apprentice must meet minimum standards training in colonic irrigation as provided in subsection 64B7-32.005(3), F.A.C.
- (5) The sponsor shall certify training is complete by reporting the following to the Department:
 - (a) The name and license number of the colonic irrigation apprentice;
 - (b) The name and license number of the sponsoring massage therapist;
 - (c) The name and license number of the qualified massage establishment;
 - (d) The starting and ending date of the trainings, and
 - (e) A record of completion of training, indicating number of hours, and treatments provided by date.

Chapter 64B7-30 Discipline

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

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

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

64B7-30.002 Disciplinary Guidelines.

(1) When the Board finds that an applicant, apprentice, or licensee whom it regulates under chapter 480, F.S., has committed any of the acts set forth in Sections 480.041, 480.043, 480.0485, 480.046, and 456.072, F.S., and/or Division 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.

(3) 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

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following:

- (a) The potential danger to the public;
- (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 or potential harm, physical or otherwise, caused by the violation;
- (f) The deterrent effect of the penalty imposed;
- (g) The potential effect of the penalty upon the licensees' 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) Evidence of fraud or misrepresentation;
- (n) Damage to the reputation of the profession of massage therapy;
- (o) Penalties imposed for related offenses under subsections (1) and (2), above.

64B7-30.004 Citations.

(1) Definitions. As used in this rule:

(a) "Citation" means a document 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)(m), 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)(n), 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.

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(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 massage therapist license in violation of Section 480.047(1)(a), F.S., or operating a massage establishment with a delinquent massage establishment license in violation of Section 480.047(1)(b), F.S., when the license has become delinquent automatically for failure to renew, so long as the license is reinstated within 90 days of becoming delinquent, shall result in a penalty of \$250.00. Practice for more than 90 days after a license has become delinquent shall not be a citation violation.

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

(h) 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.

(i) 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.

(j) 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.

(k) A first-time violation of 456.072(1)(pp) for providing information indicating supporting a person's need for an emotional support animal under s.760.27 without personal knowledge of the need for the specific emotional support animal, shall result in a penalty of \$250.00.

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

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

64B7-30.005 Mediation.

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

(1) Violation of Section 480.0465, F.S.: failure to include license number in an advertisement.

(2) Violation of Section 480.047(1)(a) or Section 480.046(1)(f) or (k), 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)(n), F.S., if the violation did not present an immediate threat to public health.

(4) Violation of Section 480.046(1)(o), 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

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381.026 and 381.0261, F.S.

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

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

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

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

(12) Violation of Section 456.072(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 have proof of active insurance available at an establishment as required by subsection 64B7-26.003(4), F.A.C.

(3) 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

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supervisor/monitor who shall serve in that capacity until the next meeting of the Board, at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

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

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

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

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

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

Chapter 64B7-33 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, 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

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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)(a) It is unlawful for any person or any entity to pay or receive, directly or indirectly, a commission, bonus, kickback, or rebate from, or to engage in any form of a split-fee arrangement with, a dialysis facility, health care practitioner, surgeon, person, or entity for referring patients to a clinical laboratory as defined in s. 483.803.

(4) 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

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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:

(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.

456.41 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 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.

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(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 - <https://floridasmassagetherapy.gov/continuing-education-faqs/>

References

Chapter 480, Florida Statutes: Massage Therapy. Accessed on September 2, 2021 from:

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

Florida Board of Massage Therapy Rules. Accessed on September 2, 2021 from: <https://floridasmassagetherapy.gov/resources/>

Chapter 456, Florida Statutes: Health Professions and Occupations: General Provisions. Accessed on September 2, 2021 from:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0456/0456ContentsIndex.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. 12)
 - 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. 12)
 - 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. 21)
 - 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. 22)
 - 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; and 1 hour of Human Trafficking Awareness
 - D. 3 hours of infection control instruction

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6. An apprentice must be under _____ supervision by a sponsor. (p. 23-24)
 - A. Direct
 - B. Indirect
 - C. Active
 - D. Remote

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. 26)
 - 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. 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. 30)
 - A. license number
 - B. address
 - C. full legal name
 - D. phone number

10. Kickbacks are _____. (p. 32)
 - 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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