Laws and Rules for Massage Therapy: Florida- 10 hours

Introduction
This course will define the rules and regulations for the practice of massage therapy in the state of Florida. The course is divided into sections. Each section will include objectives, clarification or interpretation of the laws and rules, and history sections. History sections are related to the development of laws in Florida. Each law contains either FS (Florida Statutes) or FAC (Florida Administrative Code) with citations to the section and chapter number of the creating act and each amended act.

The most important laws and rules for massage therapists in the state of Florida are:

- Chapter 456, Florida Statutes
- Chapter 480, Florida Statutes
- Rule 64B7, Florida Administrative Code Massage Practice Act

Massage therapy is regulated in Florida under the Department of Health by a board designated strictly to the practice and regulation of massage therapy. The board of massage therapy holds every licensed massage therapist in this state to standards of practice that has been created with the sole purpose of protecting the public. The most important point for ensuring that a massage license is in good standing with the board of massage therapy is knowledge of the laws and rules that govern the practice of massage therapy.

Laws and rules relative to the practice of massage therapy can be found at:
www.doh.state.us/mqa/massage

The address and phone number for the board of massage therapy:
Division of Medical Quality Assurance
Board of Massage Therapy
4052 Bald Cypress Way
Tallahassee FL 32399-3256
850 488-0595

The three main areas of law related to massage therapy are The Florida Massage Practice Act: Chapter 480 and Chapter 456 of the Florida Statutes and Chapter 64B7 of the Florida Administrative Code. The
following will describe these laws and rules, but it is up to the individual massage therapist to stay current on these laws and to practice within the laws at all times. Ignorance of the law is no excuse. Each massage therapist should read and understand current laws and rules. This course does not substitute for thorough and continued reading of Florida laws and rules. Information and laws change. Therefore, it is important to frequently access chapters 456 and 480, as well as 6487.

**Section I. CHAPTER 480 of the Florida Statutes**

**MASSAGE PRACTICE**

**Learning Objectives:**

After completion of this section of the course, the motivated learner should be able to:

1. Identify the laws and rules that relate to the practice of massage therapy in Florida
2. Define massage as it relates to the Florida Massage Therapy Act
3. State the purpose of the Florida Massage Therapy Act
4. Define the board, department, massage, massage therapist, apprentice, colonic irrigation, establishment licensure and board-approved massage school relative to this Act
5. List exemptions to the Florida Massage Therapy Act
6. Describe the board of massage therapy
7. Name the accountability of board members
8. Recognize who provides investigative services required in carrying out the provisions of this act
9. List the requirements for licensure or endorsement in Florida
10. Name what rules may be adopted by the board
11. List the requirements for license renewal
12. Name the rules that the board and department must follow for examinations
13. Discuss massage establishments, requisites, licensure and inspection
14. List the fees set by the board
15. Name the grounds for disciplinary action by the board
16. State the requirements for advertisement
17. List the penalties for massage therapist who violate the provisions of this section
18. Define sexual misconduct
19. Name the civil proceedings that can be imposed
20. Define the power of the county or municipality to regulate massage
The Massage Practice Act

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480.031
Short title.
This act shall be known and may be cited as the “Massage Practice Act.”

History.
s. 1, ch. 78-436; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 4, ch. 91-429.

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

History.
s. 2, ch. 78-436; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 49, ch. 89-374; s. 4, ch. 91-429.

Interpretation: The purpose of the law is to protect the public. Chapter 480 is referred to as the Massage Practice Act.

480.033
Definitions.
As used in this act:
(1) “Board” means the Board of Massage Therapy.
(2) “Department” means the Department of Health.
(3) “Massage” means the manipulation of the soft tissues of the human body with the hand, foot, arm,
or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

(4) “Massage therapist” means a person licensed as required by this act, who administers massage for compensation.

(5) “Apprentice” means a person approved by the board to study massage under the instruction of a licensed massage therapist.

(6) “Colonic irrigation” means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.

(7) “Establishment” means a site or premises, or portion thereof, wherein a massage therapist practices massage.

(8) “Licensure” means the procedure by which a person, hereinafter referred to as a “practitioner,” applies to the board for approval to practice massage or to operate an establishment.

(9) “Board-approved massage school” means a facility which meets minimum standards for training and curriculum as determined by rule of the board and which 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.

History.
  s. 3, ch. 78-436; ss. 13, 15, 25, 30, 34, 50, 62, ch. 80-406; s. 2, ch. 81-318; s. 76, ch. 83-329; ss. 1, 12, 13, ch. 85-280; s. 50, ch. 89-374; s. 4, ch. 91-429; s. 169, ch. 94-218; s. 67, ch. 95-144; s. 149, ch. 97-264; s. 116, ch. 2001-277; s. 1025, ch. 2002-387.

Interpretation: These are the definitions used in the law and rules for massage therapy. Note the difference between the definition of board and department.

480.034
Exemptions.

(1) Nothing in this act shall modify or repeal any provision of chapters 458-464, inclusive, or of chapter 476, chapter 477, or chapter 486.

(2) Athletic trainers employed by or on behalf of a professional athletic team performing or training within this state shall be exempt from the provisions of this act.

(3) The state and its political subdivisions are exempt from the registration requirements of this act.

(4) An exemption granted is effective to the extent that an exempted person’s practice or profession overlaps with the practice of massage.

History.
  s. 4, ch. 78-436; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 1, ch. 87-267; s. 4, ch. 91-429; s. 150, ch. 97-264.
Interpretation: There are only three exemptions—athletic trainers, state and political subdivisions or overlapping professions. Acupuncturists and chiropractors are examples of overlapping professions.

480.035
Board of Massage Therapy.

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

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

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

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

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

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

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

History.
s. 5, ch. 78-436; ss. 13, 15, 25, 30, 34, 51, 62, ch. 80-406; s. 2, ch. 81-318; ss. 2, 12, 13, ch. 85-280; s. 51, ch. 89-374; s. 4, ch. 91-429; s. 170, ch. 94-218; s. 411, ch. 97-103; s. 151, ch. 97-264; s. 151, ch. 98-200.

Interpretation: The board is created within the department and has the power to adopt rules. The Governor appoints each member for a term of 4 years.

480.036
Accountability of board members.

Each board member shall be held accountable to the Governor for the proper performance of all
duties and obligations of such board member’s office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, incompetency, or permanent inability to perform official duties.

History.
s. 6, ch. 78-436; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 4, ch. 91-429.

Interpretation: Board members are accountable to the Governor. The Governor has the power to initiate an investigation.

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

History.
s. 9, ch. 78-436; s. 2, ch. 81-318; ss. 3, 12, 13, ch. 85-280; s. 4, ch. 91-429.

Interpretation: The department conducts the investigations.

480.041
Massage therapists; qualifications; licensure; endorsement.
(1) Any person is qualified for licensure as a massage therapist under this act who:
(a) Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;
(b) Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and
(c) Has received a passing grade on an examination administered by the department.
(2) Every person desiring to be examined for licensure as a massage therapist shall apply to the department in writing upon forms prepared and furnished by the department. Such applicants shall be subject to the provisions of s. 480.046(1). Applicants may take an examination administered by the department only upon meeting the requirements of this section as determined by the board.
(3) Upon an applicant’s passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.
(4) The board shall adopt rules:
(a) Establishing a minimum training program for apprentices.
(b) Providing for educational standards, examination, and certification for the practice of colonic
irrigation, as defined in s. 480.033(6), by massage therapists.

(c) Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.

History.

s. 10, ch. 78-436; ss. 13, 15, 25, 30, 34, 52, 62, ch. 80-406; s. 2, ch. 81-318; ss. 25, 47, ch. 82-179; s. 77, ch. 83-329; ss. 4, 12, 13, ch. 85-280; s. 61, ch. 87-225; s. 52, ch. 89-374; s. 4, ch. 91-429; s. 153, ch. 94-119; s. 152, ch. 97-264.

Interpretation: Those qualified for licensure must be at least 18 years of age, must have completed a study at a board-approved school or board-approved apprenticeship program and received a passing grade on an exam administered by the department. After paying the licensure fee and passing the exam, the department will issue a license that will be valid until the next scheduled renewal date.

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.

History.

ss. 5, 13, ch. 85-280; s. 53, ch. 89-374; s. 4, ch. 91-429; s. 230, ch. 94-119; s. 153, ch. 97-264.

Interpretation: The board is responsible for prescribing the 25 hours necessary per biennium. The board must approve all continuing education programs or courses. Either correspondence courses or live courses may be used for continuing education once approved.

480.042 Examinations.

(1) The board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure an applicant’s competency. Professional testing services may be utilized to formulate the examinations.

(2) The board shall ensure that examinations comply with state and federal equal employment opportunity guidelines.
(3) The department shall, in accordance with rules established by the board, examine persons who file applications for licensure under this act in all matters pertaining to the practice of massage. A written examination shall be offered at least once yearly and at such other times as the department shall deem necessary.

(4) The board shall adopt rules providing for reexamination of applicants who have failed the examination.

(5) All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the State Surgeon General and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

History.

s. 11, ch. 78-436; ss. 13, 15, 25, 30, 34, 53, 62, ch. 80-406; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 4, ch. 91-429; s. 154, ch. 94-119; s. 412, ch. 97-103; s. 154, ch. 97-264; s. 96, ch. 2008-6.

Interpretation: The board is responsible for specifying the areas of competency by examinations. Professional testing services formulate the exams. All exams must comply with state and federal equal employment opportunity guidelines. These exams must be offered at least annually. The board also adopts rules for reexamination. All exams are kept for a minimum of 2 years.

480.043

Massage establishments; requisites; licensure; inspection.

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

(2) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.

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

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

(5) If, based upon the application and any necessary investigation, the department determines that the proposed establishment would fail to meet the standards adopted by the board under subsection (2), the department shall deny the application for license. Such denial shall be in writing and shall list the reasons for denial. Upon correction of any deficiencies, an applicant previously denied permission
to operate a massage establishment may reapply for licensure.

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

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

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

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

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

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

History.

s. 12, ch. 78-436; ss. 13, 15, 25, 30, 34, 54, 62, ch. 80-406; s. 2, ch. 81-318; ss. 6, 12, 13, ch. 85-280; s. 4, ch. 91-429; s. 156, ch. 97-264.

Interpretation: Any and all massage establishments must be licensed by the department with rules adopted by the board. First, an application must be made to the state. A fee is paid and then an investigation may be conducted. If denied, the denial must be in writing. After correction of any deficiencies, an applicant may reapply for licensure. Licensure may be given after any necessary investigation and licensure may contain restrictions. Licenses may not be transferred from one owner to another. A license may be transferred from one location to another only after inspection and approval and payment of fee. A license can be transferred from one business name to another after approval by the board and an application fee. Licenses must be renewed and the board can inspect massage establishments periodically.

480.044

Fees; disposition.

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

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

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

(c) Establishment application fee: not to exceed $200.
(d) Establishment licensure fee: not to exceed $150.
(e) Biennial establishment renewal fee: not to exceed $150.
(f) Biennial massage therapist licensure renewal fee: not to exceed $200.
(g) Massage therapist reexamination fee: not to exceed $250.
(h) Fee for apprentice: not to exceed $100.
(i) Colonics examination fee: not to exceed $100.
(j) Colonics reexamination fee: not to exceed $100.
(k) Application and reactivation for inactive status of a massage therapist license fee: not to exceed $250.
(l) Renewal fee for inactive status: not to exceed $250.

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

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

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

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

History.

s. 13, ch. 78-436; ss. 13, 15, 25, 30, 34, 55, 62, ch. 80-406; s. 2, ch. 81-318; ss. 7, 12, 13, ch. 85-280; s. 24, ch. 88-205; s. 54, ch. 89-162; s. 55, ch. 89-374; s. 4, ch. 91-429; s. 157, ch. 97-264; s. 127, ch. 98-166; s. 187, ch. 2000-160.

*Interpretation:* These are the current fees established by the board.

480.046

Grounds for disciplinary action by the board.

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

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

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

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

(d) False, deceptive, or misleading advertising.

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

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

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

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

(i) 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.

(j) 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.

(k) 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.

(l) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.

(m) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.

(n) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.
(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall have the power to revoke or suspend the license of a massage establishment licensed under this act, or to deny subsequent licensure of such an establishment, in either of the following cases:

(a) Upon proof that a license has been obtained by fraud or misrepresentation.

(b) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.

(4) Disciplinary proceedings shall be conducted pursuant to the provisions of chapter 120.

History.

s. 15, ch. 78-436; s. 2, ch. 81-318; s. 78, ch. 83-329; ss. 8, 12, 13, ch. 85-280; s. 1, ch. 88-233; s. 56, ch. 89-374; s. 4, ch. 91-429; s. 413, ch. 97-103; s. 45, ch. 2001-277; s. 21, ch. 2005-240.

Interpretation: There are many ways to lose a massage therapy license or to be denied a license.

1. a. Using a fictitious name or someone else’s name; fraudulently misrepresenting yourself or your education.

b. Having your license revoked, suspended, or denied by another state, territory or country.

c. Convicted or found guilty of a crime related to massage therapy or a plea of nolo contendere (a legal term that comes from the Latin for "I do not wish to contend." It is also referred to as a plea of no contest.

In criminal trials, and in some common law jurisdictions, it is a plea where the defendant neither admits nor disputes a charge, serving as an alternative to a pleading of guilty or not guilty.)

A no-contest plea, while not technically a guilty plea, has the same immediate effect as a guilty plea, and is often offered as a part of a plea bargain. In many jurisdictions a plea of nolo contendere is not a right, and carries various restrictions on its use.

d. False advertising such as claiming that massage therapy can cure certain conditions or deceiving the public through advertising.

  e. Helping or allowing an unlicensed person to practice massage therapy.

  f. Telling your clients that massage therapy can do more than it can.

  g. Failing to practice massage therapy with reasonable safety due to illness or the use of drugs or alcohol. If the department has probable cause to compel a massage therapist to submit to a mental or physical examination by a physician and the massage therapist to submit, the therapist is considered guilty. The massage therapist may be given the opportunity to demonstrate the ability to resume the competent practice of massage at reasonable intervals.
480.0465
Advertisement.

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

History.
ss. 9, 13, ch. 85-280; s. 2, ch. 88-233; s. 57, ch. 89-374; s. 4, ch. 91-429.

Interpretation: All advertising must include the therapist’s license number and the massage establishment number. The only exception is that a licensed massage therapist who is the owner or principal officer of the establishment may be used rather than the license number of 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 licenseholder 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) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.
s. 16, ch. 78-436; s. 2, ch. 81-318; ss. 10, 12, 13, ch. 85-280; s. 58, ch. 89-374; s. 4, ch. 91-429; s. 414, ch. 97-103; s. 158, ch. 97-264.
**Interpretation:** The law is clear in Florida. Massage therapists who violate any of the following will be found guilty of a misdemeanor of the first degree and will be subject to fines and court costs.

a. Do not practice massage without a license unless exempt.
b. Do not operate a massage establishment anywhere in Florida without a license. One exception is a licensed and board-approved massage school.
c. Do not allow anyone to practice massage at your massage establishment without a license.
d. Do not use someone else’s massage license as your own.
e. Do not allow anyone else to use your license for any reason.
f. Do not use forged or false information to obtain a massage therapy license.
g. Do not impersonate anyone else or use their name for massage.
h. Do not use a revoked license at any time.
i. Do not violate any provisions of this act.

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.

History.

s. 159, ch. 97-264.

**Interpretation:** There is no room for sexual misconduct by massage therapists in Florida. That means no inappropriate touch or attempting to involve the patient in any sexual activity. Ben E. Benjamin, Ph.D. has written a very informative brochure on sexual misconduct. To view this publication, go to www.advocatweb.org/massage_therapist.pdf.

480.049

**Civil proceedings.**

As cumulative to any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this act or the lawful rules or orders of the department.
Interpretation: In addition to criminal prosecution or any other remedy, the department may also file a writ of mandamus. This is a writ issued by a superior court ordering a public official or body or a lower court to perform a specified duty. An injunction may be filed. An injunction refers to the act or an instance of enjoining; a command, directive, or order.

Law. A court order prohibiting a party from a specific course of action.

480.052
Power of county or municipality to regulate massage.
A county or municipality, within its jurisdiction, may regulate persons and establishments licensed under this chapter. Such regulation shall not exceed the powers of the state under this act or be inconsistent with this act. This section shall not be construed to prohibit a county or municipality from enacting any regulation of persons or establishments not licensed pursuant to this act.

Interpretation: Counties of municipalities in Florida may also regulate massage therapists or massage establishments licensed under this chapter. Examples of regulation include additional rules for therapists and massage establishments over and above this act, but cannot exceed the power of this act.

Section 2. Florida Administrative Code
64B7 Board of Massage
To view this chapter in its entirety, go to flrules.org

Objectives: At the completion of this chapter, the motivated learner should be able to:
1. Discuss probable cause
2. Cite the rules for board meeting attendance
3. Explain the time limit for paying civil penalties
4. Define “other board business”
5. List examination requirements
6. Name specific requirements for obtaining a massage therapy license
7. Name the deadline for colonic irrigation application
8. Explain the HIV/AIDS requirement for initial licensure
9. Name the rule governing exam security and monitoring
10. List the requirements for endorsement
11. Name the time limit for incomplete applications
12. Discuss the laws and rules for massage establishments
13. List the facility requirements for massage establishment operations
14. Discuss massage establishment inspections and transfer of licensure
15. Discuss prohibited sexual activity
16. Recognize the fee schedule for massage therapy
17. List the requirements for biennial license renewal for massage therapists
18. Define “place of practice”
19. Compare and contrast inactive status and delinquent status
20. Discuss exemptions for spouses of members of the armed forces
21. Describe license display
22. List the requirements for continuing education
23. Discuss pro bono services
24. List the requirements for board approval for continuing education programs
25. Discuss apprenticeship
26. Discuss rules for colonics apprenticeship
27. List disciplinary guidelines
28. Discuss citations and explain mediation
29. Explain notice of non-compliance
30. Discuss probable cause panel
31. Discuss advertisement rules

CHAPTER 64B7-24 ORGANIZATION
64B7-24.004 General Description of Agency Organization and Operations. (Repealed) 64B7-24.005 Agency Head. (Repealed) 64B7-24.006 General Information. (Repealed) 64B7-24.0071 Conducting Meetings, Hearings, and Workshops by Communications Media Technology. (Repealed) 64B7-24.008 Probable Cause Determination; Probable Cause Panel.64B7-24.009 Meetings. (Repealed) 64B7-24.0091 Attendance of Meetings by Board Members.64B7-24.010 Notice of Meetings. (Repealed) 64B7-24.011 Agenda. (Repealed) 64B7-24.012 Workshops. (Repealed)64B7-24.013 Emergency Meetings. (Repealed) 64B7-24.014 Declaratory Statement. (Repealed) 64B7-24.015 Guidelines for Disposition of Disciplinary Cases or Other Cases in Which Substantial Interests Are Determined by the Board. (Repealed) 64B7-24.016 Time for Payment of Civil Penalties. 64B7-24.0165 Return of Certificate or Licenses. (Repealed) 64B7-24.017 Board Business. 64B7-24.019 Criteria for Selection of Investigators. (Repealed)

64B7-24.008 Probable Cause Determination; Probable Cause Panel.
(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 456 or 480, F.S., or of the rules promulgated thereunder, has occurred shall be made by a probable cause panel of two members to be selected by the chairman of the Board.
(2) The Chairman shall be permitted to appoint one former Board member to serve on the Board’s probable cause panel.
**Interpretation:** A probable cause panel composed of two members of the board selected by the chairman and one member of the board appointed by the chairman to make up this panel. The chairman may appoint a former board member to the probable cause panel. This panel determines whether or not there is probable cause of a violation.

**64B7-24.0091 Attendance of Meetings by Board Members.**
Unexcused absences of a board member are absences not due to the following situations:
(1) Medical problems of a board member or a board member’s family including but not limited to illness, surgery, emergency care and/or hospitalization;
(2) Death of a family member and/or attendance at the family member’s funeral;
(3) Any conflict, extraordinary circumstance, or event approved by the chairman of the board.

**Interpretation:** Because meetings are so important, board members must excuse themselves only under these conditions. The chairman of the board can approve any absences as set forth in this rule.

**64B7-24.016 Time for Payment of Civil Penalties.**
In cases where the Board imposes a civil penalty for violation of Chapter 456 or 480, F.S., or the rules promulgated thereunder, the penalty shall be paid within thirty (30) days of its imposition by order of the Board, or as otherwise directed by the Board.

**Interpretation:** Civil penalties must be paid within 30 days of order.

**64B7-24.017 Board Business.**
(1) For the purposes of Section 456.011(4), F.S., the Board defines “other business involving the Board” as,
(a) All regularly scheduled meetings of Board committees, and
(b) Whenever a board member has been requested by the Secretary or the Department staff to participate in a meeting or in the preparation, administration, or grading of the examination.
(c) Meetings or business at the direction or request of the Board.
(2) Meetings or participation by telephone do not constitute other board business.
(3) Documentation of requests, authorizations, or notices for meetings under the terms of this rule shall be kept at the Board office.

**Interpretation:** Other board business includes regularly scheduled meetings, preparing administering or grading an exam as directed by the secretary of the department, meetings at the request of the board, but board business does not include telephone meetings. The board office keeps all requests, authorizations and notices of meetings.

**CHAPTER 64B7-25 EXAMINATION**
Examination Requirements. 64B7-25.001

(1) The Department shall issue a license to a person who:
(a) Pays to the Department the fee set out in subsection 64B7-27.002(1), F.A.C.;
(b) Completes a course of study at a massage school approved by the Board pursuant to Rule Chapter 64B7-32, F.A.C.; or completes an approved apprenticeship program in accordance with Rule Chapter 64B7-29, F.A.C.;
(c) Completes the HIV/AIDS course requirement in Rule 64B7-25.0012, F.A.C.;
(d) Passes a national examination approved by the Board;
(e) Completes a course relating to the prevention of medical errors as required by subsection 456.013(7), F.S.

(2) The Board approves the National Certification Board for Therapeutic Massage and Bodywork examination.


Interpretation: Massage therapy licenses will be issued to those who pay the fee, completes an approved course or an approved apprenticeship, completes an HIV and prevention of medical errors course, and completes the NCBTMB exam.

Colonic Irrigation Application Deadline. 64B7-25.0011

An applicant for the colonic irrigation examination or for re-examination must file in the Board office a completed application (incorporated herein by reference and entitled State of Florida Application for Licensure Massage Therapy, form # BMT2, (revised 7/2000), instructions attached and available at the Board office), including proof of completion of an approved course of study or an apprenticeship, at least 45 days prior to the examination date. The examination or re-examination fee must accompany the application.

Specific Authority 480.041(3)(b) FS. Law Implemented 480.041(3)(b) FS. History–New 11-25-80, Amended 7-12-82, Formerly 21L-25.011, Amended 3-12-90, Formerly 21L-25.0011, Amended 9-30-93, 9-15-94, 7-2-96, Formerly 61G11-25.0011, Amended 11-2-00.

Interpretation: In order to take the colonic irrigation exam, applicants must submit a completed application, submit proof of completion of an approved course or apprenticeship, and pay the fee at least 45 days prior to the exam.

HIV/AIDS Course Required for Initial Licensure. 64B7-25.0012

As a condition to granting an initial license, the applicant is required to complete a 3-hour educational course approved by the Board on human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS). Courses that have received Board approval are sponsored by: the Department of Health, Division of Health Quality Assurance, the American Red Cross, or directly by the Board approved massage schools.


Interpretation: In order to receive an initial license in Florida, the candidate must submit evidence of a board-approved 3 hour HIV/AIDS course.
64B7-25.0025 Security and Monitoring Procedures for Licensure Examination.
The Board adopts by reference Department of Health, Rule 64B-1.010, F.A.C., as its rule governing
examination security and monitoring.

Specific Authority 456.017(1)(d) FS. Law Implemented 456.017(1)(d) FS. History–New 2-8-82, Formerly 21L-24.18, 21L-24.018,
64B7-24.018, 61G11-25.0025, Amended 2-4-99.

**Interpretation:** The board of massage therapy uses the same rules for security and monitoring
of the exam as the Department of Health.

64B7-25.004 Endorsements.
(1) The Department shall issue a license by endorsement to a person who:
(a) Pays to the Department the initial licensure fee set forth in subsection 64B7-27.008(2), F.A.C.; and
(b) 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
(c) Demonstrates that his out-of-state license was issued upon the satisfactory completion of an examination
comparable to the examination given by the Department; and
(d) Has no outstanding or unresolved complaints filed against him or her in the jurisdiction of licensure.
(2) The Department may interview an applicant for licensure by endorsement to determine whether he qualifies for
such endorsement.

Specific Authority 456.013(2), 480.035(7), 480.041(4)(c) FS. Law Implemented 456.013(2), 480.041(4)(c) FS. History– New 11-
27-79, Amended 7-9-80, 8-29-83, 10-9-85, Formerly 21L-25.04, Amended 6-12-88, 8-15-89, 2-11-93, Formerly 21L-25.004,

**Interpretation:** Massage therapists who have been licensed or certified in another state may
obtain a Florida license if they pay the fee, if they completed a similar or more stringent
course as those in Florida, completed the national exam, or has no outstanding complaints
against him. The department may interview the candidate.

64B7-25.006 Expiration of Incomplete Applications.
If an applicant fails to submit all items necessary for his/her application to be considered complete within one year
from the date the application is first received by the Department, the application shall expire and the applicant’s
file shall be closed.

Specific Authority 480.035(7) FS. Law Implemented 456.013, 480.041 FS. History–New 6-22-99.

**Interpretation:** If the applicant fails to submit any and all items within one year, the
application will expire and the applicant will need to start the process from the beginning.

CHAPTER 64B7-26 MASSAGE ESTABLISHMENTS
64B7-26.001 Definitions. 64B7-26.002 Licensure of Massage Establishments. 64B7-26.003 Massage Establishment
Operations. 64B7-26.004 Inspection Upon Application for License. 64B7-26.005 Periodic Inspections. 64B7-26.007
Transfer of Massage Establishment License. 64B7-26.008 Draping. (Repealed) 64B7-26.010 Sexual Activity
Prohibited.

64B7-26.001 Definitions.
(1) The term “owner” means the sole proprietor, partnership, limited partnership or corporation that operates the
massage establishment.
(2) The term “establishment” means a site or premises, or portion thereof, wherein a licensed massage therapist
practices massage for compensation.
(3) The term “business name” means the name under which the owner applies for the establishment license to provide massage therapy, if different from the name of the owner.

*Specific Authority 480.035(7) FS. Law Implemented 480.043(7) FS. History–New 7-16-98, Amended 8-5-03.*

**Interpretation:** Know these definitions before continuing this course.

64B7-26.002 Licensure of Massage Establishments.
1. Each establishment, shall obtain a license from the Department as required by Section 480.043(1), Florida Statutes, by submitting a completed form BMT3 (Rev. 7/97) Application for License Massage Establishment, incorporated herein by reference, together with the fee set forth in Rule 64B7-27.003, F.A.C.

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

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

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

*Specific Authority 480.035(7), 480.043(2) FS. Law Implemented 480.043(1), (2), 483.043(7) FS. History–New 11-27-79, Formerly 21L-26.02, Amended 1-7-86, Formerly 21L-26.002, Amended 3-9-95, 9-25-95, Formerly 61G11-26.002, Amended 7-16-98, 1-26-00.*

**Interpretation:** Each massage establishment must be licensed. To obtain licensure, complete an application in the name of the owner or corporation together with proof of property damage and liability insurance.

64B7-26.003 Massage Establishment Operations.
1. Facilities, Each establishment shall meet the following facility requirements:
   a. Comply with all local building code requirements.
   b. Provide for the use of clients a bathroom with at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle.
   c. Maintain toilet facilities in a common area of the establishment. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such central facilities shall be within three hundred (300) feet of the massage establishment.
   d. If equipped with a whirlpool bath, sauna, steam cabinet and/or steam room, maintain clean shower facilities on the premises.

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

3. Safety and sanitary requirements. Each establishment shall:
   a. Provide for safe and unobstructed human passage in the public areas of the premises; provide for removal of garbage and refuse; and provide for safe storage or removal of flammable materials.
   b. Maintain a fire extinguisher in good working condition on the premises. As used herein “good working condition” means meeting the standards for approval by the State Fire Marshal. Such standards are presently contained in Chapter 69A-21, F.A.C.
   c. Exterminate all vermin, insects, termites, and rodents on the premises.
   d. Maintain all equipment used to perform massage services on the premises in a safe and sanitary condition, including the regular application of cleansers and bactericidal agents to the massage table. Unless clean sheets,
towels, or other coverings are used to cover the massage table for each client, “regular application,” as used herein, means after the massage of each client. If clean coverings are used for each client, then “regular application” shall mean at least one time a day and also whenever oils or other substances visibly accumulate on the massage table surface.

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

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

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

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

Interpretation: Each establishment must comply with local building code and provide properly equipped bathroom facilities that are well maintained. An LMT must be present when clients are under treatment. A working fire extinguisher must be on the premises. All equipment and draping materials must be clean and well maintained. There must be an area for handwashing and a copy of insurance coverage must remain at the site.

64B7-26.004 Inspection Upon Application for License.
Upon receipt of an application for a massage establishment license, employees of the Department shall cause an inspection to be made of the site. Such inspection shall be to confirm that the site is to be utilized for “massage” as defined by Section 480.033(4), Florida Statutes, and that the criteria enunciated in Rule 64B7-26.003, F.A.C., are satisfied.

Interpretation: After application, the department will make an inspection of the massage establishment.

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.

Interpretation: Inspections will be conducted at least once a year.

64B7-26.007 Transfer of Massage Establishment License.
(1) When there is no change of ownership or location, the owner may change the business name of the establishment. The owner shall apply for a change of business name by submitting a completed Application for Licensure-Massage Establishment, Form BMT3, effective 1/98, incorporated herein by reference, accompanied by the application fee provided in subsection 64B7-27.003(2), F.A.C. When a massage establishment business name is changed, without a change in ownership or location, a new establishment inspection is not required.

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

Specific Authority 480.035(7), 480.043(2), (9) FS. Law Implemented 480.043(2), (7), (9) FS. History–New 5-17-90, Formerly 21L-26.007, 61G11-26.007, Amended 9-14-98.

**Interpretation:** If the name of the massage establishment is changed and there is no change of ownership, an application for change of name must be submitted. An inspection is not required. If the ownership remains the same, but a new location is desired, a change of location must be applied for and a fee must be submitted to the department. The department must inspect the facility before it is used.

**64B7-26.010 Sexual Activity Prohibited.**
(1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited.
(2) No massage establishment owner shall engage in or permit any person or persons to engage in sexual activity in such owner’s massage establishment or use such establishment to make arrangements to engage in sexual activity in any other place.
(3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client or to make arrangements to engage in sexual activity with any client.
(4) As used in this rule, “sexual activity” means any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both of 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.

Specific Authority 480.035(7), 480.043(2) FS. Law Implemented 480.043(2), 480.046(1)(h) FS. History–New 5-31-92, Formerly 21L-26.010, 61G11-26.010.

**Interpretation:** The board of massage makes it very clear that sexual activity in massage therapy is against Florida laws and rules. No massage establishment can allow sexual activity of any kind. No massage therapist may engage in any sexual activity with any client or make arrangements to engage in any sexual activity with any client. Know the above definitions of sexual activity. For further information related to sexual misconduct in Florida, go to [www.advicetaweb.org/massage_therapist.pdf](http://www.advicetaweb.org/massage_therapist.pdf)

**CHAPTER 64B7-27 FEE SCHEDULE**

64B7-27.001 Collection and Payment of Fees; Special Fee to Cover Cost of Enforcement of Prohibitions Against Unlicensed Activities. (Repealed)
64B7-27.002 Application for Licensure; Fees. 64B7-27.003 Massage Establishment.64B7-27.004 Re-examination. 64B7-27.005 Apprentice. 64B7-27.006 Biennial Renewal Fee for Massage Therapist.64B7-27.007 Biennial Renewal Fee for Massage Establishments. 64B7-27.008 Initial Fee for Licensure. 64B7-27.009 Provisional License Fee. (Repealed) 64B7-27.010 Renewal Fee for Inactive License. 64B7-27.011 Reactivation Fee for Inactive License. 64B7-27.012 Licensure of Establishment Fee. 64B7-27.014 Duplicate License Fees. 64B7-27.015 Delinquency Fee. 64B7-27.016 Change in Status Fee. 64B7-27.017 Unlicensed Activity Fee.

**Interpretation:** The fees for massage licenses and renewal are listed below.

64B7-27.002 Application for Licensure; Fees.
The application fee for licensure shall be a $50 nonrefundable application fee.


64B7-27.003 Massage Establishment.
(1) The application fee for licensure of an establishment shall be $150.00.
(2) The application fee for change of the business name of an establishment is $25.00.
(3) The application and inspection fee for transfer of an establishment from one location to another shall be $125.00.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.043(7), 480.044(1)(c) FS. History–New 11-27-79, Amended 7-9-80, 11-20-84, Formerly 21L-27.03, Amended 1-7-86, Formerly 21L-27.003, Amended 1-9-95, Formerly 61G11-27.003, Amended 6-15-98, 7-30-02.

64B7-27.004 Re-examination.
The re-examination fees shall be:
(1) The fee to retake the Board approved national examination shall be the same fee as the original examination.
(2) The fee to retake the colonics examination shall be the same fee as the original colonics examination.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(g) FS. History–New 11-27-79, Formerly 21L-27.04, Amended 6-17-86, 5-17-90, Formerly 21L-27.004, Amended 12-12-94, 9-18-95, 9-9-96, Formerly 61G11-27.004, Amended 1-7-03.

64B7-27.005 Apprentice.
The apprentice application fee shall be one hundred dollars ($100.00).

Specific Authority 480.044(1) FS. Law Implemented 480.044(1)(h) FS. History–New 11-27-79, Formerly 21L-27.05, 21L-27.005, 61G11-27.005, Amended 2-16-99.

64B7-27.006 Biennial Renewal Fee for Massage Therapist.
The fee for biennial renewal of a massage therapist’s license shall be $150.00.


64B7-27.007 Biennial Renewal Fee for Massage Establishments.
The fee for biennial renewal of a massage establishment license shall be $150.00.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(e) FS. History–New 11-27-79, Amended 7-9-80, Formerly 21L-27.07, Amended 12-18-88, Formerly 21L-27.007, 61G11-27.007, Amended 7-30-02.

64B7-27.008 Initial Fee for Licensure.
(1) Any person who is initially licensed pursuant to Rule 64B7-25.001, F.A.C., shall pay a fee of $150.00.
(2) Any person who is initially licensed pursuant to Rule 64B7-25.004, F.A.C., shall pay a fee of $150.00.


64B7-27.010 Renewal Fee for Inactive License.
The fee for renewal of an inactive license shall be $150.00.

Specific Authority 480.0425, 480.044(1) FS. Law Implemented 480.044(1), (1)(f) FS. History–New 12-18-84, Formerly 21L-27.10, 21L-27.010, 61G11-27.010, Amended 7-30-02.

64B7-27.011 Reactivation Fee for Inactive License.
The fee for reactivation of an inactive license shall be one hundred fifty dollars $150.00.


64B7-27.012 Licensure of Establishment Fee.
The fee for licensure of an establishment shall be $150.00.


64B7-27.014 Duplicate License Fees.
The fee for the issuance of a duplicate massage therapist license shall be twenty-five dollars ($25.00). The fee for the issuance of a duplicate massage establishment license shall be twenty-five dollars ($25.00).

Specific Authority 456.025(7) FS. Law Implemented 456.025(7) FS. History–New 1-30-90, Formerly 21L-27.014, 61G11-27.014.

64B7-27.015 Delinquency Fee.
The delinquency fee shall be $150.00.

Specific Authority 456.036(7) FS. Law Implemented 456.036(7) FS. History–New 12-12-94, Formerly 61G11-27.015, Amended 7-30-02.

64B7-27.016 Change in Status Fee.
The change in status fee shall be $50.00.

Specific Authority 456.036(8) FS. Law Implemented 456.036(8) FS. History–New 12-12-94, Formerly 61G11-27.016, Amended 7-30-02.

64B7-27.017 Unlicensed Activity Fee.
In addition to the initial license fee and in addition to the license renewal fee, a fee of $5.00 shall be collected from each applicant or licensee as applicable to fund efforts to combat unlicensed activity.

Specific Authority 456.065(3) FS. Law Implemented 456.065(3) FS. History–New 7-30-02.

Interpretation: Consult the above for specific fees.

CHAPTER 64B7-28 BIENNIAL LICENSE RENEWAL

64B7-28.001 Biennial Renewal of Massage Therapist’s License.
64B7-28.0015 Place of Practice Defined. 64B7-28.002 Biennial Renewal of Massage Establishment License. 64B7-28.003 Biennial Period, Year Defined. 64B7-28.0041 Inactive Status and Renewal of Inactive Status. 64B7-28.0042 Requirements for Reactivation of an Inactive License. 64B7-28.0043 Delinquent Status License. 64B7-28.007 Exemption of Spouses of Members of Armed Forces From Licensure Renewal Provisions. 64B7-28.008 Display of Licenses. 64B7-28.009 Continuing Education.64B7-28.0095 Continuing Education for Pro Bono Services. 64B7-28.010 Requirements for Board Approval of Continuing Education Programs.

Interpretation: This chapter defines biennial (every 2 years) license renewal. See below.

64B7-28.001 Biennial Renewal of Massage Therapist’s License.
(1) All license renewals for massage therapists shall meet the requirements as set forth in Chapters 456 and 480, F.S., these rules, and the rules of the Department of Health. All massage therapists shall renew their licenses on or before August 31, of each biennial year, according to the fee schedule as set forth in Chapter 64B7-27, F.A.C.
(2) No license shall be renewed unless the licensee submits confirmation on a department form that the licensee has
completed an education course on HIV/AIDS which meets the requirements of Section 456.034, F.S. If the licensee has not submitted confirmation which has been received and recorded by the Board, the department shall not renew the license. The Board approves courses that have been approved by regulatory Boards or Councils under the Division of Medical Quality Assurance, the Agency for Health Care Administration, the Department of Health, the American Red Cross, or directly by the Board, and courses sponsored or presented by Board-approved Massage Schools.

(3) No license shall be renewed unless the licensee submits confirmation in writing to the Florida Board of Massage Therapy that the licensee has completed an education course of at least 2 hours relating to prevention of medical errors as part of the licensure and renewal process. The course must include a study of root-cause analysis, error reduction and prevention, and patient safety. The 2-hour course shall count toward the total number of continuing education hours required for renewal.

**Specific Authority 456.013(7), 456.034, 480.035(7), 480.0415, 480.044 FS. Law Implemented 456.013(7), 456.034, 480.0415, 480.044(1)(f), (m) FS. History–New 11-27-79, Amended 12-18-84, Formerly 21L-28.01, Amended 3-12-90, 1-3-91, Formerly 21L-28.001, Amended 9-30-93, 6-12-95, 9-25-95, 7-17-97, Formerly 61G11-28.001, Amended 4-28-99, 7-30-02.**

*Interpretation: Each massage therapist is required to renew their license every 2 years in the odd years. An HIV/AIDS course and a 2 hour prevention of medical errors are required for renewal.*

**64B7-28.0015 Place of Practice Defined.**

(1) The reporting requirements of Section 456.035, F.S., require each licensee to provide to the Board a current mailing address and a “place of practice.” The current mailing address and place of practice may be one and the same, or may be two different addresses if the licensee does not receive mail at his or her place of practice.

(2) “Place of practice” shall mean:

(a) A massage establishment maintained by the licensed massage therapist; or

(b) The massage establishment at which the licensed massage therapist provides massage therapy; or

(c) The medical office at which the licensed massage therapist provides massage therapy; or

(d) If the licensed massage therapist practices at more than one location, one such location as selected by the licensed massage therapist;

(e) If the licensed massage therapist provides massage therapy only at the location of clients, the place of practice is the residence address of the therapist.


*Interpretation: The place of practice for massage therapists can be his/her massage establishment, a massage establishment owned by another, a medical office or the client’s residence address. If the massage therapist practices in more than one location, he/she must select one location for the place of practice.*

**64B7-28.002 Biennial Renewal of Massage Establishment License.**

All license renewals for massage establishments shall meet the requirements as set forth in Chapter 480, F.S., and these rules. All massage establishments shall renew their licenses on or before August 31 of each biennial year, according to the fee schedule as set forth in Rule 64B7-27.007, F.A.C., and the insurance coverage requirements of subsection 64B7-26.002(4), F.A.C. If, however, the massage establishment does not renew its license timely, the license shall be considered delinquent. If a massage establishment is operating with a delinquent license, said establishment is in violation of Section 480.047(1)(b), F.S., and is subject to the criminal penalties as provided for in Section 480.047(2), F.S. In order to renew a delinquent license, the massage establishment shall pay the late fee for delinquent renewal in the amount of seventy-five dollars ($75.00) as set forth in Section 480.044(2), F.S., and the biennial renewal fee as specified in Rule 64B7-27.007, F.A.C.

**Specific Authority 480.035(7), 480.043(8), 480.044 FS. Law Implemented 480.043(8), 480.044(1)(e), 480.067(1)(b) FS. History–New 11-27-79, Formerly 21L-28.02, Amended 1-7-86, 1-30-90, 1-3-91, Formerly 21L-28.002, 61G11-28.002, Amended 9-21-04.**
Interpretation: Each massage establishment must renew its license at each biennial period. The license will be considered delinquent if not paid on time. There is a late fee for licensure renewal if not paid on time. If the fee is not paid, the license is considered delinquent and criminal penalties may be imposed.

64B7-28.003 Biennial Period, Year Defined.
Biennial period shall mean September 1 of each odd-numbered year and ending August 31 of each odd-numbered year. Biennial year shall mean every odd-numbered year.


Interpretation: The biennium occurs every odd year. Expiration is August 31. Keep this date in mind to comply with license renewal requirements.

64B7-28.0041 Inactive Status and Renewal of Inactive Status.
(1) Any licensee may elect at the time of biennial license renewal to place the license into inactive status by filing with the Department a completed application for inactive status as set forth in Section 456.036, F.S., and the appropriate fee required by Rule 64B7-27.010, F.A.C.
(2) Inactive licenses must be renewed biennially including payment of the renewal fee set forth in Rule 64B7-27.010, F.A.C.
(3) An inactive license can be reactivated at any time provided the licensee meets the requirements of Rule 64B7-28.0042, F.A.C.
(4) An inactive licensee who elects to change to active status shall not be permitted to return to inactive status until the next biennial renewal period.


Interpretation: Inactive status may be obtained at the biennial license renewal time. The license may be renewed biennially after the payment of a fee and completion of continuing education requirements.

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 Rule 64B7-27.011, F.A.C., and has complied with the following requirements:
(1) As a condition to the reactivation of an inactive license, a massage therapist must submit proof of having completed the appropriate continuing education requirements as set forth in Rule 64B7-28.009, F.A.C.
(2) However, any licensee whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for two out of the previous four years in another jurisdiction shall be required to appear before the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. At the time of such appearance, the licensee must:
(a) Show compliance with subsection (1) above;
(b) Account for any activities related to the practice of massage therapy in this or any other jurisdiction during the period that the license was inactive and establish an absence of malpractice or disciplinary actions pending in any jurisdiction;
(c) Prove compliance with Section 456.065, F.S., and subsection 64B7-28.001(2), F.A.C.
(3) The Department shall not reactivate the license of any if the 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 456.034, F.S., and subsections 64B7-28.001(2) and (3), F.A.C.
Interpretation: Licenses may be restored to active status by paying the fee, completing the continuing education requirements if the licensee has been active less than 2 biennial periods. If the license has been inactive for more than 2 biennial licensure periods, the licensee must appear before the board and demonstrate competence in performing massage therapy. In addition, he/she must show documentation of any massage therapy conducted in another jurisdiction and document the absence of malpractice or pending disciplinary actions and complete required continuing education. An inactive license will not be renewed if the licensee has been disciplined in Florida or any other jurisdiction.

64B7-28.0043 Delinquent Status License.
(1) The failure of any license holder to either renew the license or elect inactive status before the license expires shall cause the license to become delinquent.
(2) The delinquent status licensee must affirmatively apply for active or inactive status during the licensure cycle in which the license becomes delinquent. The failure by the delinquent status licensee to cause the license to be renewed or made inactive before the expiration of the licensure cycle in which the license became delinquent shall render the license null and void without further action by the Board or the Department.
(3) The delinquent status licensee who applies for license renewal or inactive status shall:
   (a) Apply to the department for either license renewal as required by Section 480.0415, F.S., or inactive status as required by Section 456.036, F.S.
   (b) Pay to the Board either the license renewal fee as set forth in Rule 64B7-27.006, F.A.C., or the inactive status fee as set forth in Rule 64B7-27.010, F.A.C.; the delinquency fee as set forth in Rule 64B7-27.015, F.A.C., and the change of status fee as set forth in Rule 64B7-27.016, F.A.C., if applicable; and
   (c) If renewal is elected, demonstrate compliance with the continuing education requirements found in Rule 64B7-28.009, F.A.C.

Interpretation: Licenses will be considered delinquent if not renewed in a timely fashion or if inactive status is not requested. If renewal of the delinquent status license is required, the licensee must make application to the board, pay the fees and complete any continuing education requirements.

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.

Interpretation: The spouse of a member of the armed forces is exempt from license renewal if absent from Florida for at least 6 continuous months.

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.

(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.

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

**Specific Authority 480.035(7) FS. Law Implemented 480.043(1) FS. History–New 4-21-86, Formerly 21L-28.008, 61G11-28.008, Amended 1-26-00.**

**Interpretation:** Licenses must be displayed conspicuously in each location where the therapist practices. Apprentice certificates must be displayed in the massage establishment. The owner of each massage establishment must display current licenses.

**64B7-28.009 Continuing Education.**

(1) Every massage practitioner licensed pursuant to Chapter 480, F.S., shall be required for renewal to complete one continuing education hour for each month or part of a month that shall have elapsed since the issuance of the license for which renewal is sought, up to a maximum requirement of 24 hours for the renewal period. Such courses shall have been approved for continuing education credit pursuant to Rule 64B7-28.010, F.A.C., and shall have been completed within the renewal period preceding the date renewal is due. Every massage practitioner must obtain the continuing education required for biennial renewal of the massage therapy license as set forth in Rule 64B7-28.001, F.A.C. Graduates of a Board approved massage school who received two hours of education in Chapters 480 and 456, F.S., and Rule Chapter 64B7, F.A.C., and two (2) hours of professional ethics prior to initial licensure shall not be required to complete additional continuing education in the same subject matter for initial renewal of the license.

(2) All continuing education requirements may be met by correspondence/home study courses, tape and/or video cassette courses, provided the course requires passing a test to be graded by the provider and the passing score is verified by the provider of the course. Video cassette courses shall not exceed 5 hours per subject and must meet the requirements of Rule 64B7-28.010, F.A.C. The vendor and the licensee shall verify in writing that all requirements of paragraph 64B7-28.010(2)(c) or (d), F.A.C., have been met. Such verification/validation shall clearly indicate the course is a “correspondence/home study course/tape or videocassette course” and that the licensee passed the course in order to be accepted as proof of attendance.

(3) Effective for the biennium beginning September 1, 2001, the continuing education contact hours shall be in the following areas:

(a) At least 12 continuing education hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology.

(b) Except as provided in subsection 64B7-28.009(1), F.A.C., two hours must cover instruction in professional ethics, two hours must be in a course relating to the prevention of medical errors, and two hours must cover instruction in Chapters 480 and 456, F.S., and Rule Chapter 64B7, F.A.C.

(c) The remaining hours may include courses on communications with clients and other professionals, insurance relating to third party payment or reimbursement for services, psychological dynamics of the client-therapist relationship, risk management, including charting, documentation, record keeping, or infection control (other than the HIV/AIDS course required by Section 456.034, F.S.), or massage practice management. The remaining hours may also include up to 4 hours credit for adult cardio-pulmonary resuscitation (CPR), provided the course is sponsored by the American Red Cross, the American Heart Association or the American Safety and Health Institute, or is instructed by persons certified to instruct courses for those organizations.

(4) The licensee shall retain, for not less than four years, such receipts, vouchers or certificates as are necessary to document completion of the continuing education stated on the renewal application.

(5) At the end of each biennium, the Board will audit a number of randomly selected licensees to assure that the continuing education requirements have been met. Within 21 days of a request from the Board or Department, the licensee must provide written documentation that the continuing education requirements have been met.

**Specific Authority 456.013(7), (8), (9), 480.035(7), 480.0415 FS. Law Implemented 456.013(7), (8), (9), 480.0415 FS. History–New 4-21-86, Amended 2-25-88, 8-29-88, 1-30-90, 10-2-90, Formerly 21L-28.009, Amended 8-16-94, 6-5-95, 2-12-97, Formerly 61G11-28.009, Amended 8-16-98, 3-15-99, 9-20-99, 11-28-02, 2-13-05.**

**Interpretation:** For biennial renewal of licenses, 24 hours of continuing education are
required which includes 2 hours of laws and rules, 2 hours of professional ethics, 2 hours of prevention of medical errors and an HIV course. The remaining hours must comply with above. Random audits will be conducted.

64B7-28.0095 Continuing Education for Pro Bono Services.
(1) Up to 6 hours of continuing education per biennium may be awarded for the performance of pro bono services to the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigence shall be that recognized by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services.
(2) In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval, which must include the following information:
   (a) The type, nature and extent of services to be rendered;
   (b) The location where the services will be rendered;
   (c) The number of patients expected to be served; and
   (d) A statement indicating that the patients to be served are indigent underserved or in an area of critical need.
(3) Credit shall be given on an hour per hour basis.
(4) Approval for pro bono services is only granted for the biennium for which it is sought. The licensee must request approval for each biennium they wish to receive credit for pro bono services.


Interpretation: Pro bono services provided to the indigent or underserved population may be submitted in lieu of continuing education requirements if first submitted and approved by the board.

64B7-28.010 Requirements for Board Approval of Continuing Education Programs.
(1) For the purpose of renewing or reactivating a license credit will be approved for programs which are offered by providers approved by the Board. In order to receive Board approval as a provider, an applicant shall:
   (a) Submit a completed Massage Continuing Education Provider Application, BMT5, and Approved Provider Supplemental Program/Instructor Information, BMT6, incorporated herein by reference, and a non-refundable application fee of $250. The forms will be effective 2-18-98, copies of which may be obtained from the Board office at: 4052 Bald Cypress Way, BIN #C06, Tallahassee, Florida 32399-3256.
   (b) Sign and abide by written agreement to:
      1. Provide an identifiable person to be responsible for ensuring that each program presented under their Board of Massage provider number meets program requirements set forth in subsection (2) below.
      2. Retain a “sign-in-sheet” with the signature of participants and copies of any promotional materials for at least 4 years following the course.
      3. Provide each participant with a certificate of attendance verifying the program has been completed. The certificate shall not be issued until completion of the program and shall contain the provider’s name and number, title of program and program number, instructor, date, number of contact hours of credit, the licensee’s name and license number.
      4. Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.
   (2) Each program presented by a Board approved provider shall:
      (a) Meet the standards of subsection 64B7-28.009(2), paragraph (3)(a), (b) or (c), F.A.C.;
      (b) Have stated learning objectives;
      (c) Be instructed by a person who meets at least one of the following criteria:
         1. Holds a minimum of a bachelor’s degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or
         2. Has graduated from a school of massage or an apprenticeship program which has a curriculum equivalent to
requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board, and has completed three years of professional experience in the practice of massage, and

a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or

3. Is licensed as a massage therapist in another state or foreign sovereign state having standards of education or apprenticeship training substantially similar to or more stringent than those required for licensure in Florida and has practiced massage therapy for a minimum of 10 years, and
a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or

4. Has taught at a school of massage which has a curriculum equivalent to requirements in this state and was approved by a state licensing authority, a nationally recognized massage therapy association, or a substantially equivalent accrediting body, or the Board for a minimum of two years, and
a. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or
b. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group or at a massage therapy school, or
c. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject, or

(d) Provided, however, that approved courses in areas other than massage theory, history, and techniques may be instructed by a person who meets at least one of the following criteria:

1. Holds a minimum of a bachelor’s degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered, or
2. Has, within the last five years of practical experience, had a minimum of two years teaching experience in the subject matter to be offered, or

1. Has taught the same courses on this approved subject a minimum of 3 times in the past 2 years before a professional convention, professional group, or at a massage therapy school, or
2. Has completed specialized training in the subject matter and has a minimum of two years of practical experience in the subject.

(3) The Board retains the right and authority to audit and/or monitor programs given by any provider. The Board will rescind provider status or reject individual programs given by a provider if the provider has disseminated any false or misleading information in connection with the continuing education program, or if the provider has failed to conform to and abide by the written agreement and rules of the Board.

(4) One hour of continuing education is defined as no less than 50 uninterrupted minutes of learning.

(5) Presenters/moderators/instructors of courses shall not receive credit for courses they present.

(6) A Board approved provider must submit a completed application for supplemental courses, form # BMT6, to the Board office prior to offering such courses for credit. The submitted information must also identify any new continuing education instructor and show that such instructor meets the criteria set forth in this rule. Whenever an instructor and his/her course have obtained approval by the Board, the instructor may teach the course at any time, in whole or in part, so long as the materials being taught do not deviate from course materials originally approved, there is no change of instructor, and the documentation of attendance clearly indicates the original course approval number and the hours of credit given for this version of the course. Therefore, the number of continuing education
hours awarded for the course may be the original number of hours approved, or less. An increase of the number of continuing education hours awarded will require submission of form # BMT6 for approval of a course.

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

(8) Provider numbers must be renewed biennially on or before August 31 of the biennial renewal year. The provider must return the renewal form provided by the department together with a renewal fee of $250. If the renewal form and renewal fee are not received by the department on or before August 31 of the biennial year, the provider must submit a new application and, if approved, receive a new provider number.

Specific Authority 456.013(8), (9), 456.025(7), 480.035(7), 480.0415 FS. Law Implemented 456.013(8), (9), 456.025(7), 480.0415 FS. History– New 4-21-86, Amended 9-14-87, 8-29-88, 2-8-89, 3-12-90, 1-3-91, Formerly 21L-28.010, Amended 9-30-93, 8-16-94, 6-12-95, 2-12-97, Formerly 61G11-28.010, Amended 2-18-98, 10-26-98, 9-20-99, 11-4-99, 11-21-02, 10-12-03.

Interpretation: Continuing education must be approved by the board. Applicants who want to be providers must submit an application, pay the fee and sign an agreement with the board. Each program must meet the standards set by the board, have stated objectives, have instructors that meet minimum requirements for education and experience. The board can audit and monitor programs. All course materials must be current. Provider numbers are renewed on or before August 31 of the biennial renewal year and the fee must be paid.

CHAPTER 64B7-29 APPRENTICESHIP

64B7-29.001 Definitions. 64B7-29.002 Qualification. 64B7-29.003 Apprenticeship Training Program. 64B7-29.004 Termination. 64B7-29.005 Extension of Apprenticeship. 64B7-29.006 Change of Sponsoring Massage Therapist. 64B7-29.007 Colonics Training through Apprenticeship.

64B7-29.001 Definitions.
(1) “Apprentice” means a person meeting the qualifications stated in Rule 64B7-29.002, F.A.C., studying massage under the “direct supervision” of a “sponsoring massage therapist”.
(2) “Sponsoring massage therapist” means a licensed massage therapist whose record with the Department indicates compliance with Chapters 456 and 480, F.S., and the rules promulgated thereunder. Further, a “sponsoring massage therapist” must have been engaged in the actual practice of massage for at least three years prior to his “sponsorship”.
(3) “Sponsorship” means the willingness of a “sponsoring massage therapist” to assume the responsibility for the “direct supervision” of only one apprentice by execution of the Sponsor’s Apprentice Application.
(4) “Direct supervision” means the control, direction, instruction, and regulation of an apprentice at a “qualified massage establishment” during the working hours of the establishment.
(5) “Qualified massage establishment” means a licensed massage establishment which, in addition to meeting the requirements of Chapter 64B7-26, F.A.C., is equipped with the following:
(a) Tables.
(b) Linen and storage areas.
(c) Colonic equipment (required if colonic irrigation is taught).
(d) Sterilization equipment if non-disposable colonic attachments are utilized.
(e) Hydro-therapy equipment, which must include cold packs and hot packs. Such equipment shall be that which is generally acceptable in the massage profession.
(f) Textbooks and teaching materials on the following subjects:
1. Physiology,
2. Anatomy,
3. Theory of Massage,
4. Hydro-therapy,
5. Statutes and Rules on Massage Practice,
6. Colonic Irrigation (if colonic equipment is present).


**Interpretation:** Know these definitions related to apprenticeship before continuing.

64B7-29.002 Qualification.
Persons seeking to be apprentices shall meet the following requirements:
(1) The applicant must have secured the sponsorship of a sponsoring massage therapist.
(2) The applicant must complete the application furnished by the Department and pay the fee set forth in Rule 64B7-27.005, F.A.C.
(3) The applicant may not be enrolled simultaneously as a student in a Board-approved massage school.


**Interpretation:** In order to be qualified as an apprentice, the candidate must obtain a sponsor. The sponsor must apply to the department and submit the fee.

64B7-29.003 Apprenticeship Training Program.
(1) All apprenticeship training shall be conducted by the licensed sponsoring massage therapist, in a qualified massage establishment licensed pursuant to Section 480.043, F.S.
(2) Apprenticeship training shall be 12 months in duration and shall be completed within 24 months of commencement. The apprentice shall complete within the first quarter of the apprenticeship training program:
(a) 100 hours of study in Physiology,
(b) 100 hours of study in Anatomy, and
(c) 15 hours of study in Statutes and Rules of Massage Practice.
(3) Course of Study for Apprentices, which incorporates that required in (2)(a), shall be as follows:
(a) 300 hours of Physiology.
(b) 300 hours of Anatomy.
(c) 20 hours of Theory and History of Massage.
(d) 50 hours of Theory and Practice of Hydro-Therapy.
(e) 5 hours of Hygiene.
(f) 25 hours of Statutes and Rules of Massage Practice.
(g) 50 hours of Introduction to Allied Modalities.
(h) 700 hours of Practical Massage.
(i) 3 hours of Board-approved HIV/AIDS instruction.
(4) The sponsoring massage therapist shall maintain at the establishment a daily record of hours completed by the apprentice in each of the areas listed in subsection (3) above. This record shall be available for inspection during regular business hours and shall be inspected by a representative of the Department at least once within 12 months from the commencement of the apprenticeship.
(5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399-3256. If quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship shall be terminated.
(6) A graduate of a board-approved massage school who enters the apprenticeship training program, at any time after he has taken the initial licensure examination or subsequent re-examinations thereafter, must complete the entire program as required above prior to taking subsequent re-examinations. Any applicant who enters the apprenticeship training program and terminates the program is prohibited from taking the licensure examination for
1 year from the date of termination. An individual may be exempted from this provision if he terminates the apprenticeship training program and subsequently completes a program at a board-approved massage school.

Specific Authority 480.035(7), 480.041(1)(b), (4) FS. Law Implemented 480.041(1)(b), (4) FS. History—New 11-27-79, Amended 11-25-80, 12-18-84, Formerly 21L-29.03, Amended 4-7-86, 11-4-86, 12-22-92, Formerly 21L-29.003, Amended 6-5-95, Formerly 61G11-29.003, Amended 11-21-02.

Interpretation: Apprenticeship training is 12 months in duration and should be completed within 24 months. The course of study is outlined by the board. Hours must be maintained by the sponsoring massage therapist and quarterly reports must be submitted to the board. If the applicant does not pass the national exam, he/she must complete the entire program prior to re-examination or must attend a board-approved massage school.

64B7-29.004 Termination.
(1) If an apprentice terminates his apprenticeship, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days.
(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in Chapter 64B7, F.A.C., is found subsequent to Department inspection of the “qualified massage establishment” as defined under Rule 64B7-29.001, F.A.C., the apprenticeship shall be tolled until such time as the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board, the Board will require that the “sponsor” and the “apprentice” appear before the Board for the purpose of determining compliance with the apprenticeship training program requirements of Rule 64B7-29.003, F.A.C.


Interpretation: If the apprentice terminates his apprenticeship, the sponsoring massage therapist must notify the board within 10 days. If violations exist, the sponsor and apprentice will meet before the board to determine compliance.

64B7-29.005 Extension of Apprenticeship.
An apprenticeship may be extended under the following conditions:
(1) Apprenticeships completed prior to an examination date may, upon notification by the sponsoring massage therapist to the Department, automatically be extended until the date examination results are released.
(2) If an applicant fails the first examination after his apprenticeship is completed, the Department may grant an extension of the apprenticeship with the concurrence of the sponsoring massage therapist.
(a) The apprentice must appear at the next scheduled examination for licensure.
(b) The extension of the apprenticeship shall expire upon written notification by the Department that the apprentice has failed the re-examination or on the date of the scheduled examination, should the applicant fail to appear.

Specific Authority 480.035(7), 480.041(5)(a) FS. Law Implemented 480.032, 480.041(1)(b), (5)(a) FS. History—New 11-27-79, Amended 11-11-82, Formerly 21L-29.05, Amended 11-4-86, Formerly 21L-29.005, 61G11-29.005.

Interpretation: Apprenticeships may be extended if completion occurs prior to an exam date or if, if the applicant fails the national test. The apprentice must take the next scheduled exam. The extension of the apprenticeship will expire upon written notification by the department that the applicant failed the re-exam or failed to appear for exam.

64B7-29.006 Change of Sponsoring Massage Therapist.
If for any reason the sponsoring massage therapist is no longer able to sponsor an apprentice, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days. If the
apprentice desires to remain in the apprenticeship program he or she must secure the sponsorship of another sponsoring massage therapist. The apprentice shall receive credit for training received from the prior sponsoring massage therapist.

*Specific Authority 480.041(5)(a) FS. Law Implemented 480.041(1)(b), (5)(a) FS. History–New 11-27-79, Formerly 21L-29.06, 21L-29.006, 61G11-29.006.*

**Interpretation:** If the sponsoring massage therapist terminates the apprentice, the sponsoring massage therapist must notify the department within 10 days. If the apprentice wants to continue the apprenticeship, a new sponsoring massage therapist must be secured.

**64B7-29.007 Colonics Training through Apprenticeship.**
A massage practitioner shall instruct another individual in colonics only under the following conditions:

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

*Specific Authority 480.035(7), 480.041(5)(c) FS. Law Implemented 480.041(5)(c) FS. History–New 4-21-86, Formerly 21L-29.007, Amended 7-3-97, Formerly 61G11-29.007.*

**Interpretation:** Massage practitioners may instruct an apprentice if the above criteria is met.

**CHAPTER 64B7-30 DISCIPLINE**
64B7-30.001 Misconduct and Negligence in the Practice of Massage Therapy. 64B7-30.002 Disciplinary Guidelines. 64B7-30.004 Citations. 64B7-30.005 Mediation. 64B7-30.006 Notice of Noncompliance. 64B7-30.007 Probable Cause Panel. 64B7-30.008 Probationary Conditions and Definitions.

**Interpretation:** Discipline in Florida is very clear. See below for specific acts and 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.

Specific Authority 480.035(7), 480.046(1)(h) FS. Law Implemented 480.032, 480.046(1), (1)(h), (2) FS. History–New 9-5-84, Amended 9-25-85, 1-1-86, Formerly 21L-30.01, Amended 3-26-87, 1-29-89, 11-15-92, Formerly 21L-30.001, Amended 2-13-95, Formerly 61G11-30.001, Amended 9-14-98.

Interpretation: Misconduct and negligence encompass the following:
1. Giving treatment in a negligent manner, failure to practice with a certain level of care or skill.
2. Violating confidentiality.
3. Offering massage at a sports event, convention or trade show without obtaining written approval.
4. Failing to explain draping techniques.
5. Failing to appropriately drape a client.

64B7-30.002 Disciplinary Guidelines.
(1) When the Board finds that an applicant, apprentice, or licensee whom it regulates under Chapter 480, F.S., has committed any of the acts set forth in Sections 480.0485, 480.046, 480.047 and 456.072, F.S., 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 (3) of this rule:

(a) 480.046(1)(a)
Licensee
First offense: Suspension and $250.00 fine. Subsequent offense: $1,000.00 fine Licensee and revocation. If the offense is for fraud or making a false or fraudulent representation, first offense: $10,000.00 fine; second offense: $10,000.00 fine and suspension of license; subsequent offense: $10,000.00 fine and revocation of the license

Applicant:
Denial of licensure. If the offense is for fraud or making a false or fraudulent representation, denial of licensure and a $10,000.00 fine.
456.072(1)(h) Revocation through error of Department or Board.

(b) 480.046(1)(b) or 456.072(1)(f)
Licensee: Impose discipline consistent with penalty or actions imposed in other jurisdiction. Applicant: Deny licensure.

(c) 480.046(1)(c) or 456.072(1)(c)
Misdemeanors First offense: $250.00 fine; second offense: $500.00 fine and probation; third offense: $500.00 fine and suspension.
Felony:
First offense: $500.00 fine and probation; second offense: $500.00 fine and suspension; third offense:
$1,000.00 fine and suspension.

Crimes relating to $1,000.00 fine and revocation. assault, battery, abuse or which otherwise cause bodily harm,
prostitution or solicitation for prostitution

(d) 480.046(1)(d)
First offense: $500.00 fine and reprimand; second offense: $750.00 fine and probation; third offense:
$1,000.00 fine and suspension. If the offense is for fraud or making a false or fraudulent representation,
first offense: $10,000.00 fine and reprimand; second offense: $10,000.00 fine and probation; third offense:
$10,000.00 fine and suspension.

(e) 480.046(1)(e) or 456.072(1)(j)
First offense: $1,000.00 fine and suspension; second offense: $1,000.00 fine and revocation for a minimum
of two (2) years; third offense: permanent revocation. If the offense is for fraud or making a false or
fraudulent representation, first offense: $10,000.00 fine and suspension; second offense: $10,000.00 fine
and revocation for a minimum of two (2) years; third offense: $10,000.00 fine and permanent revocation.

(f) 480.046(1)(f) or 456.072(1)(a) or(m)
First offense: $500.00 fine and reprimand; second offense: $500.00 fine and probation; third offense:
$1,000.00 fine and suspension. If the offense is for fraud or making a false or fraudulent representation,
first offense: $10,000.00 fine; subsequent offense: $10,000.00 fine and revocation.

(g) 480.046(1)(g) First offense: probation; second offense: suspension; third offense: revocation.

(h) 480.046(1)(h) First offense: $1,000.00 fine and probation; second offense: $1,000.00 fine and suspension;
third offense: $1,000.00 fine and revocation.

(i) 480.046(1)(i) or First offense: $1,000.00 fine and probation; 456.072(1)(o) second offense: $1,000.00 fine
and suspension; third offense: $1,000.00 fine and revocation.

(j) 480.046(1)(j) or First offense: $250.00 fine and probation; 456.072(1)(p) second offense: $500.00 fine and
suspension; third offense: $1,000.00 fine and revocation.

(k) 480.046(1)(o) or 456.072(1)(cc) Unless an offense specifically set forth below, first offense: $250.00 fine;
subsequent offense: $250.00 fine and probation.

1. 480.0485 $1,000.00 fine and revocation.

2. 422.480.047(1)(a) – $100.00 fine for first month and $50.00 for each succeeding month violator’s license
or part thereof and reprimand. If the offense is for fraud or making delinquent a false or fraudulent
representation, the fine is $10,000.00 and a reprimand.

3. 443.480.047(1)(a) – Revocation. If the offense is for fraud or making a false or violator’s license fraudulent
representation, the fine is $10,000.00 and suspended or inactive revocation of license.

4. 484.480.047(1)(b) – $100.00 fine for first month and $50.00 for each succeeding month violator’s license
or part thereof and reprimand. If the offense is for fraud or delinquent making a false or fraudulent
representation, the fine is $10,000.00 and a reprimand.

5. 480.047(1)(b) – Revocation. If the offense is for fraud or making a false or violator’s license fraudulent
representation, the fine is $10,000.00 and revocation. suspended or inactive

6. 480.047(1)(c) First offense: $1,000.00 fine and revocation; subsequent offense: $1000.00 fine and
revocation for minimum of two (2) years.

7. 487.840.047(1)(d) Licensee First offense: $1,000.00 fine; second offense: $1,000.00 fine and revocation. If
the offense is for fraud or making a false or fraudulent representation, first offense: $10,000.00 fine; second
offense: $10,000.00 fine and revocation. Applicant First offense: denial of licensure; subsequent offense:
denial of licensure and prohibition on reapplication for 2-5 years. If the offense is for fraud or making a
false or fraudulent representation, first offense: $10,000.00 fine and denial of licensure; subsequent offense:
$10,000.00 fine and denial of licensure and prohibition on reapplication for 2-5 years.

8. 480.047(1)(e) First offense: $1,000.00 fine and revocation. If the offense is for fraud or making a false or fraudulent
representation, the fine is $10,000.00 and revocation of license.

9. 480.047(1) Licensee First offense: $1,000.00 fine and probation; second offense: $1,000.00 fine and suspension;
third offense: $1,000.00 fine and revocation. If the offense is for fraud or making a false or fraudulent
representation, first offense: $10,000.00 fine and probation; second offense: $10,000.00 fine and suspension;
third offense: $10,000.00 fine and revocation.

Applicant
First offense: denial of licensure; subsequent offense: denial of licensure and prohibition on reapplication
for 2-5 years. If the offense is for fraud or making a false or fraudulent representation, first offense:
$10,000.00 fine and denial of licensure; subsequent offense: $10,000.00 fine, denial of licensure and prohibition on reapplication
for 2-5 years.

10. 480.047(1)(g)
Licensee
First offense: $1,000.00 fine and probation; subsequent offense: $1,000.00 fine and revocation. If the
offense is for fraud or making a false or fraudulent representation, first offense: $10,000.00 fine and
probation; subsequent offense: $10,000.00 fine and revocation.

Applicant
First offense: denial of licensure; subsequent offense: denial of licensure and prohibition on reapplication
or 2-5 years. If the offense is for fraud or making a false or fraudulent representation, first offense:
$10,000.00 fine, denial of licensure and prohibition on reapplication for 2-5 years.

11. Failure to respond to continuing education audit First offense: $500.00 fine and suspension; subsequent
offense: $500.00 fine and revocation

12. Any violation of Rule 64B7-26.010, F.A.C. (l) 480.046(1)(1) First offense: $1000.00 fine and probation to
$2,500.00 fine and revocation. Second offense: $5,000.00 fine and revocation.

480.046(1)(l) First offense: $500 fine and suspension; second offense: $1,000.00 fine and suspension; third offense:
$1,000.00 fine and revocation.

(m) 480.046(1)(m) First offense: $250.00 fine and reprimand; second offense: $500.00 fine and suspension; third
offense: $1,000.00 fine and revocation.

(n) 480.046(1)(n)

1. Establishment license delinquent
   $100.00 fine for the first month and $50.00 for each succeeding delinquent month or part thereof and
   reprimand. If the offense is for fraud or making a false or fraudulent representation, the penalty is $10,000.00
   fine and reprimand.

2. Establishment license suspended – site owned by massage therapist
   First offense: Suspension of owner’s massage therapy license; subsequent offense: revocation of licensed
   owner’s massage therapy license. If the offense is for fraud or making a false or fraudulent representation, first
   offense: $10,000.00 fine and suspension of owner’s massage therapy license; subsequent offense: $10,000.00 fine
   and revocation of the owner’s massage therapy license.
(o) 456.072(1)(g) – false report to Department regarding violation
   First offense: $500.00 fine and suspension; subsequent offense: $1,000.00 fine and revocation. If the offense
   is for fraud or making a false or fraudulent representation: first offense: $10,000.00 fine and suspension; subsequent
   offense: $10,000.00 fine and revocation.

(p) 456.072(1)(i) – failure to report violator
   First offense: $500.00 fine and reprimand; subsequent offense: $1,000.00 fine and suspension. If the offense
   is for fraud or making a false or fraudulent representation, first offense: $10,000.00 fine and reprimand; subsequent
   offense: $10,000.00 fine and suspension.

(q) 456.072(1)(l) – filing a false report required by law
   First offense: $500.00 fine and probation; subsequent offense: $1,000.00 fine and revocation. If the offense
   is for fraud or making a false or fraudulent representation, first offense: $10,000.00 fine and probation; subsequent
   offense: $10,000.00 fine and revocation.

(r) 456.072(1)(n) – influencing client for financial gain
   First offense: $500.00 fine and probation; subsequent offense: $1,000.00 fine and revocation.

(s) 456.072(1)(r) – interfering with an investigation or inspection
   First offense: $500.00 fine and suspension; subsequent offense: $1,000.00 fine and revocation.

(t) 456.072(1)(b) – intentionally violating a rule of the Board or Department
   First offense: $1,000.00 fine and suspension; subsequent offense: $1,000.00 fine and revocation.

(u) 456.072(1)(k) – failure to perform any legal obligation placed on licensee
   First offense: $250.00 fine; second offense: $500.00 fine; subsequent offense: $1,000.00 fine.

(v) 1. 456.072(1)(q) or 480.046(1)(k) violating any Board or Department order or failure to comply with a lawfully
   issued subpoena of the Department.
      First offense: $250.00 fine and probation; Second offense: $500.00 fine and probation with a Third
      offense: $1,000.00 fine and suspension

2. Violation of a Board order entered in a previous disciplinary case, including citation final orders.
   $1,000.00 fine and suspension until compliant with previous order. If the offense is for fraud or making a
   false of fraudulent representation, the fine is $10,000.00 and suspension until compliant with the previous final
   order.

(w) 456.072(1)(u) engaging or attempting to engage a patient or client in verbal or physical sexual activity.
   Verbal first offense: $1,000.00 fine and probation; subsequent offense: verbal or physical, $1,000.00 fine
   and revocation. Physical: $1,000.00 fine and revocation.

(x) 456.072(1)(w) failing to report to the Board within thirty (30) days after the licensee has been found guilty of, or
   entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction
   First offense: $500.00 fine if non-violent, non-sexual and non-felony; second offense: $5,000.00 fine and
   suspension; third offense: $1,000.00 fine and revocation. If a crime of violence, sexual crime or felony, first offense:
   $1,000.00 fine and suspension; subsequent offense: $1,000.00 fine and revocation.

(y) 456.072(1)(w) failing to report to the and Board in writing on or before October 1, 2001, any convictions,
   findings of guilt or pleas of nolo contendere that occurred prior to July 1, 1999, and not previously reported to the
   Board
   If the crime is non-violent, non-sexual non-felony: $500.00 fine. If a crime of violence, sexual crime, or
   felony: $1,000.00 fine and revocation.
(z) 456.072(1)(x) using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports for the purpose of commercial or any other solicitation whatsoever of the people involved in such accidents.

First offense: $500.00 fine and probation; second offense: $500.00 fine and suspension; third offense: $500.00 fine and revocation.

(2) If an establishment licensed pursuant to Chapter 480, F.S., is found to have obtained such license by fraud or misrepresentation, the usual action of the Board shall be revocation of the license and prohibition of reapplication by the holder of the license for a period of two years.

(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 following:

(a) The 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 damage, physical or otherwise, caused by the violation;
(f) The deterrent effect of the penalty imposed;
(g) The effect of the penalty upon the licensees livelihood;
(h) Any effort of rehabilitation by the licensees;
(i) The actual knowledge of the licensee pertaining to the violation;
(j) Attempts by licensee to correct or stop violation or refusal by licensee to correct or stop violation;
(k) Related violations against licensee in another state including findings of guilt or innocence, penalties imposed and penalties served;
(l) Actual negligence of the licensee pertaining to any violation;
(m) Penalties imposed for related offenses under subsections (1) and (2) above;
(n) Any other mitigating or aggravating circumstances.

(4) When the Board finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it shall enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.
(b) Suspension or permanent revocation of a license.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify. Those conditions shall include requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.
(g) Corrective action.

(5) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.

(6) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the
ability of the Board to pursue or recommend the Department pursue collateral, civil or criminal actions when appropriate.

(7) In any proceeding where the Board is authorized to take disciplinary action, the Board will also impose costs of investigation and prosecution as authorized by Section 456072(4), F.S.

(8) Whenever the Board, in accordance with this rule, imposes a monetary fine against a respondent in an Administrative Complaint, it shall also impose a suspension of the respondent’s license until the fine is paid. However, to enable the respondent to pay the fine, the Board shall stay the imposition of the suspension for the same time period as specified, in accordance with Rule 64B7-24.016, F.A.C., for payment of the fine. If the fine is paid within the specified time, then the order of suspension shall not take effect; if the fine is paid after the order of suspension has taken effect, then the suspension shall be lifted.

(9) For the purposes of Sections 480.033(4) and 480.047(1)(a), F.S., “Compensation” is defined as the payment of money or its equivalent; the receipt or delivery of property; the performance of a service; or the receipt or delivery of anything of value, to the person giving a massage in exchange for massage services.

Interpretation: See above for specific disciplinary guidelines and fees.

64B7-30.004 Citations.

(1) Definitions. As used in this rule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 30 days of the date the citation is filed.

Specific Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History–New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98, 7-18-99, 7-27-00, 10-12-03, 8-9-04.

Interpretation: Citations may be imposed for the following violations:

1. Refusing to allow inspection of business premises by the department.
2. Failing to display a license or required certificate.
3. Failing to maintain property and premises of a massage establishment in clean and sanitary conditions.
4. Failing to maintain property damage and bodily injury liability insurance coverage.
5. Failing to include license number of the massage therapist or massage establishment in advertisements.
6. Practicing with a delinquent license.
7. Failing to maintain continuing education requirements.
8. Failure to notify the board of a change of address.
9. Advertising under a name that has not been licensed.
10. Writing a bad check.

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 480.047(1)(a), F.S., by practicing on a delinquent license.
2. Failure to timely respond to a continuing education audit in violation of subsection 64B7-28.009(5), F.A.C.

Specific Authority 456.0

78 FS. Law Implemented 456.078 FS. History–New 1-2-95, Amended 4-21-97, Formerly 61G11-30.005, Amended 12-19-04

Interpretation: Mediation may be used for first time offenders for practicing without a license or failing to respond to a continuing education audit.

64B7-30.006 Notice of Noncompliance.
Pursuant to Sections 120.695 and 456.073(3), F.S., the Board designates the following as minor violations for which a notice of noncompliance may be issued for the first violation thereof:

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

Interpretation:
First offense violations that are considered to be minor include failure to provide written notice of the licensee’s current mailing address and place of practice, failure to obtain HIV/AIDS continuing education, and failure to have proof of insurance available at an establishment.

64B7-30.007 Probable Cause Panel.
The determination of probable cause shall be made by the probable cause panel of the board. The probable cause panel shall consist of two members, and may include a former board member. The chair of the board shall appoint the panel members.

Interpretation:
A probably cause panel consisting of 2 members will determine probable cause.

64B7-30.008 Probationary Conditions and Definitions.
(1) Indirect Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under indirect supervision, the term indirect supervision does not require that the monitoring practitioner practice on the same premises as the respondent; however, the monitor shall practice within a reasonable geographic proximity to the respondent, which shall be within 20 miles unless otherwise authorized by the Board, and shall be readily available for consultation.
(2) Direct Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under direct supervision, the term direct supervision requires that the respondent practice only if the supervisor is on the premises.
(3) Provisions governing all supervised or monitored practitioners.
(a) The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.
(b) The respondent shall not practice without a supervisor/monitor unless otherwise ordered. The respondent shall appear at the next meeting of the Board with his proposed supervisor/monitor unless otherwise ordered.
(c) After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, the respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Board shall approve a temporary supervisor/monitor who shall serve in that capacity until the next meeting of the Board, at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.
(d) The supervisor/monitor must be a licensee under Chapter 480, F.S., in good standing and without restriction or limitation on his license. In addition, the Board shall reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Board will also reject any proposed supervisor/monitor whom the Board finds has violated the Board’s rules or Chapter 456 or 480, F.S.
(4) For purpose of determining the dates when reports are due, the date the Final Order is filed shall constitute the beginning of the quarter.
(a) All quarterly reports shall be provided to the Board office no later than three months from the filing date of the
Final Order.
(b) All semiannual reports shall be provided to the Board office no later than six months from the filing date of the Final Order.
(c) All annual reports shall be provided to the Board office no later than twelve months from the filing date of the Final Order.


Interpretation: Probation will require indirect supervision and the monitor may be within 20 miles of the practitioner. Probation may also require direct supervision and the monitor must be on premises. The monitor will be given a copy of the complaint, final order, stipulation and other relevant orders. The respondent cannot practice without a monitor present. The monitor must be properly licensed. The date of the final order is the beginning of the reports required and provided to the board office.

CHAPTER 64B7-31 COLONIC IRRIGATION
64B7-31.001 Colonic Irrigation.
(1) Intent
(a) The Board of Massage finds that the colonic irrigation procedures, while falling directly within the scope of Chapter 480, Florida Statutes, presents a substantial danger to the public if performed by incompetent practitioners.
(b) The Board of Massage further finds that a significant proportion of licensees do not perform the colonic procedure and further that a significant proportion of those desiring to enter the profession do not intend to engage in the practice of colonic.
(c) This rule is promulgated to ensure that only those who have been determined duly qualified to practice colonic irrigation may do so in an effort to protect the health, safety and welfare of the public.

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

(3) Prior to the practice of colonic irrigation, any licensed massage therapist, or apprentice shall be required to successfully complete and pass the colonic irrigation examination administered by the Department of Health.

(4) Any licensed massage therapist whose license has been in an inactive status for more than two consecutive biennial licensure cycles shall be required to successfully complete and pass the colonic irrigation examination administered by the Department 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, shall be required to successfully complete and pass the colonic examination administered by the Department prior to practicing colonic irrigation.

Specific Authority 480.035(7), 480.041(4) FS. Law Implemented 480.032, 480.033, 480.041(4) FS. History–New 12-18-84, Formerly 21L-31.01, Amended 1-30-90, 2-13-91, Formerly 21L-31.001, 61G11-31.001, Amended 1-26-00, 5-5-04.

Interpretation: The purpose of colonic irrigation licensure is to ensure the health, safety and welfare of the public. Prior to licensure, the massage therapist or apprenticeship must complete a board approved examination by the Department of Health, show evidence of completion of 100 hours of colonic irrigation training, including a minimum of 45 hours of clinical practicum with a minimum of 20 treatments completed.

CHAPTER 64B7-32 BOARD APPROVED MASSAGE SCHOOL
64B7-32.001 Definitions. 64B7-32.002 Documentation of Graduation from a Board Approved Massage
Definitions.
For the purposes of this rule chapter a “classroom hour” shall be defined as no less than 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of a member of the faculty of the school.

Interpretation: Contact hours or classroom hours are 50 minutes long.

Documentation of Graduation from a Board Approved Massage School.
In order to be acknowledged as a graduate of a Board approved massage school as referred to in subsection 480.033(9), Florida Statutes, the Board’s administrative office must receive an official transcript documenting the applicant’s training. Such transcript must document to the satisfaction of the Board that the applicant has successfully completed a course of study in massage which met the minimum standards for training and curriculum as delineated in this rule chapter. A transcript indicating passing grades in all courses, and including dates of attendance, and stating the date of successful completion of the entire course of study, is evidence of successful completion. If the transcript does not specifically state that the student successfully completed the entire course of study, the transcript must be accompanied by a diploma or certificate of completion indicating the dates of attendance and completion.

Interpretation: Massage schools must issue an official transcript for each person who attended the school.

Minimum Requirements for Board of Massage Therapy Approval.
(1) In order to receive and maintain Board of Massage Therapy approval, a massage school, and any satellite location of a previously approved school, must:
(a) Meet the requirements of and be licensed by the Department of Education pursuant to Chapter 246, Florida Statutes, or the equivalent licensing authority of another state or county, or be within the public school system of the State of Florida; and
(b) Offer a course of study that includes, at a minimum, the 500 classroom hours listed below, completed at the rate of no more than 6 classroom hours per day and no more than 30 classroom hours per calendar week: Course of Study Classroom Hours Anatomy and Physiology 150 Basic Massage Theory and 225 Clinical Practicum Florida Statutes/Rules and 10 History of Massage Theory and Practice of 15 Hydrotherapy Allied Modalities 97 HIV/AIDS Education 3
(c) Apply directly to the Board of Massage Therapy and provide the following information:

1. Sample transcript and diploma;
2. Copy of curriculum, catalog or other course descriptions;
3. Faculty credentials; and
4. Proof of licensure by the Department of Education.

(2) All faculty members of the massage therapy school must meet the minimum requirements of the Department of Education.
(3) Board of Massage Therapy approval shall be withdrawn if the massage school:
(a) Modifies its curriculum to fall below the minimum standards set out in this rule, or fails to require its students to complete the minimum standards in order to graduate;
(b) Submits to the Board of Massage Therapy on behalf of an applicant for licensure documents containing
information the school, through its owner, manager, instructors, or other employees or agents, knows to be false;
(c) Violates any standard applicable to the school pursuant to licensure by the Department of Education;
(d) Violates any applicable rule herein.
(4) A Board of Massage Therapy-approved school must notify the Board of Massage Therapy within 90 days of:
(a) Changes in curriculum;
(b) Changes in faculty or staff, including submission of the credentials of new faculty; and
(c) Changes in address.
(5) Any change in ownership of a Board of Massage Therapy approved school must be approved by the Board of
Massage Therapy.

Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b) FS. History–New 3-25-86, Amended 8-15-89, 12-

Interpretation: Schools must meet requirements developed by the Department of Education and the Florida Statutes. There is a requirement for a minimum of 500 hours.

64B7-32.004 Standards for Transfer of Credit.

Hours credited through transfer credit will not be recognized by the Board unless the following transfer standards
are met:
(1) The school shall be provided with a certified transcript from a school licensed or approved according to
subsection 64B7-32.003(1), F.A.C., above.
(2) Courses for which credit is granted shall parallel in content and intensity to the courses presently offered by the
school.
(3) Documentation of previous training shall be included in each student’s permanent file.

Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b) FS. History–New 3-25-86, Formerly 21L-32.004,
Amended 9-30-93, Formerly 61G11-32.004.

Interpretation: If a student transfers to another school or a candidate desires to obtain a license in Florida, a transfer of credit is required.

64B7-32.005 Minimum Standards for Colonics Training.

(1) Any course of study in colonics shall be in addition to the minimum 500 classroom hours provided in Rule
64B7-32.003, F.A.C., above. The course must include a minimum of 100 classroom hours of colonics training and
may only follow completion of the 500 hour requirement except that Board approved massage schools may include
the additional 100 hours of colonic training at any time during the basic course curriculum.
(2) No course of study in colonics shall be offered except by a Board approved massage school, or an independent
provider approved by the Board for colonics training only.
(3) Applicants for licensure as a colonics provider shall meet the criteria established by Rule 64B7-28.010,
F.A.C.
(4) Prior to licensure as a colonics provider, applicants shall submit a proposed curriculum to the Board for
approval. Such curriculum shall include but not be limited to:
(a) 50 hours of classroom theory, anatomy, physiology, pathology of the colon and digestive system and principles
of colonic hygiene.
(b) 45 hours of practical experience, including procedure, history, clinical records and contra-indication.
(c) 5 hours of sterilization techniques and familiarization with the types and makes of colonic irrigation equipment
commonly used in the trade.
(5) Colonics training shall be conducted only at a licensed massage establishment or Board approved school.
(6) Providers approved by the Board for colonics training only shall meet the criteria established by paragraph
64B7-32.003(1)(a), F.A.C.

Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b), (5)(c) FS. History–New 3-25-86, Amended 4-26-
Interpretation: Colonics training is conducted under the board of massage therapy. There are specific requirements for the school or for an apprenticeship. There are 100 hours of training required.

CHAPTER 64B7-33 ADVERTISEMENT

64B7-33.001 Advertisement.

64B7-33.001 Advertisement.
(1) 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. The license numbers and names shall be legible and shall appear in the advertisement exactly as they appear on the license of the therapist or establishment.
(2) For purposes of this rule, “advertising medium” means: any newspaper, airwave or computer transmission, telephone directory listing other than a listing for which no additional advertising charge is made, business card, handbill, flier, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

Interpretation: When advertising in any medium, the massage therapist or massage establishment must include their license number.

Part 3: Chapter 456, Florida Statutes

Chapter 456 is related to professionals in the healthcare field in Florida. Not all statutes relate to massage therapy. For this reason, some of the statutes have been included here and some have been excluded. Therefore, prudent massage therapists should understand all these statutes. Go to the Florida Board of Massage Therapy website: www.doh.state.fl.us/mqa/massage to read the entire chapter.

The failure to include complete laws, rules, and regulations in this summary does not relieve persons from abiding by those laws, rules or regulations

Learning Objectives:
After completion of this section of the course, the motivated learner should be able to:

- Discuss restriction on requirement of citizenship
- Discuss confidentiality of records
- List reasons for disqualification for licensure
- Define cease and desist orders and fines for offenses
- Discuss prosecution of criminal violations
- State the penalty for giving false information
- Name the toll-free number for reporting complaints
- Explain disciplinary proceedings
456.019 Restriction on requirement of citizenship.

A person is not disqualified from practicing an occupation or profession regulated by the state solely because she or he is not a United States citizen.

History s. 36, ch. 97-261; s. 20, ch. 99-7; s. 51, ch. 2000-160.

Interpretation: Massage therapists who are not United States citizens may practice provided they meet the requirements of the Florida Board of Massage regulations.

456.046 Practitioner profiles; confidentiality.

Any patient name or other information that identifies a patient which is in a record obtained by the Department of Health or its agent for the purpose of compiling a practitioner profile pursuant to s. 456.041 is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Other data received by the department or its agent as a result of its duty to compile and promulgate practitioner profiles are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the profile into which the data are incorporated or with respect to which the data are submitted is made public pursuant to the requirements of s. 456.041. Any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile or substantiating other information or records submitted for that purpose which is otherwise exempt from public disclosure shall remain exempt as otherwise provided by law.

History. s. 1, ch. 97-175; s. 71, ch. 2000-160; s. 1, ch. 2002-198.

Interpretation: Any information gathered about massage therapists from patient records is confidential.

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

(1)

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

(2)

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

History. s. 1, ch. 95-183; s. 52, ch. 97-261; s. 78, ch. 99-397; s. 82, ch. 2000-160; s. 25, ch. 2000-318; s. 70, ch. 2001-277.

Interpretation: Sexual activity is prohibited in Florida. Massage therapists licensed or certified in another state may not be licensed in Florida or practice in Florida if they committed sexual misconduct in another state. For further reading related to sexual misconduct in the practice of massage therapy go to www.advocateweb.org/massage_therapist.pdf.

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.

(1) It is the intent of the Legislature that vigorous enforcement of licensure regulation for all health care professions is a state priority in order to protect Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from unlicensed persons whose professional education and training and other relevant qualifications have not been approved through the issuance of a license by the appropriate regulatory board or the department when there is no board. The unlicensed practice of a health care profession or the performance or delivery of medical or health care services to patients in this state without a valid, active license to practice that profession, regardless of the means of the performance or delivery of such services, is strictly prohibited.

(2) The penalties for unlicensed practice of a health care profession shall include the following:
(a)

When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order.

(b)

In addition to the remedies under paragraph (a), the department may impose by citation an administrative penalty not to exceed $5,000 per incident. The citation shall be issued to the subject and shall contain the subject’s name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. If the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The department may adopt rules to implement this section. The penalty shall be a fine of not less than $500 nor more than $5,000 as established by rule of the department. Each day that the unlicensed practice continues after issuance of a notice to cease and desist constitutes a separate violation. The department shall be entitled to recover the costs of investigation and prosecution in addition to the fine levied pursuant to the citation. Service of a citation may be made by personal service or by mail to the subject at the subject’s last known address or place of practice. If the department is required to seek enforcement of the cease and desist or agency order, it shall be entitled to collect its attorney’s fees and costs.

(c)

In addition to or in lieu of any other administrative remedy, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist. The civil penalty shall be no less than $500 and no more than $5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation and prosecution.

(d)

In addition to the administrative and civil remedies under paragraphs (b) and (c) and in addition to the criminal violations and penalties listed in the individual health care practice acts:

1.

It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to practice, attempt to practice, or offer to practice a health care profession without an active, valid Florida license to practice that profession. Practicing without an active, valid license also includes practicing on a suspended, revoked, or void license, but does not include practicing, attempting to practice, or offering to practice with an inactive or delinquent license for a period of up to 12 months.
which is addressed in subparagraph 3. Applying for employment for a position that requires a license without notifying the employer that the person does not currently possess a valid, active license to practice that profession shall be deemed to be an attempt or offer to practice that health care profession without a license. Holding oneself out, regardless of the means of communication, as able to practice a health care profession or as able to provide services that require a health care license shall be deemed to be an attempt or offer to practice such profession without a license. The minimum penalty for violating this subparagraph shall be a fine of $1,000 and a minimum mandatory period of incarceration of 1 year.

2.

It is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to practice a health care profession without an active, valid Florida license to practice that profession when such practice results in serious bodily injury. For purposes of this section, “serious bodily injury” means death; brain or spinal damage; disfigurement; fracture or dislocation of bones or joints; limitation of neurological, physical, or sensory function; or any condition that required subsequent surgical repair. The minimum penalty for violating this subparagraph shall be a fine of $1,000 and a minimum mandatory period of incarceration of 1 year.

3.

It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, to practice, attempt to practice, or offer to practice a health care profession with an inactive or delinquent license for any period of time up to 12 months. However, practicing, attempting to practice, or offering to practice a health care profession when that person’s license has been inactive or delinquent for a period of time of 12 months or more shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The minimum penalty for violating this subparagraph shall be a term of imprisonment of 30 days and a fine of $500.

(3)

Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of $5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. The department shall make direct charges to the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department’s efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.023. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

(4)

The provisions of this section apply only to health care professional practice acts administered by the department.
Nothing herein shall be construed to limit or restrict the sale, use, or recommendation of the use of a dietary supplement, as defined by the Food, Drug, and Cosmetic Act, 21 U.S.C. s. 321, so long as the person selling, using, or recommending the dietary supplement does so in compliance with federal and state law.

History. s. 73, ch. 97-261; s. 84, ch. 2000-160; s. 35, ch. 2000-318; s. 54, ch. 2001-277.

**Interpretation:** The discipline and penalties for violating the law in Florida for unlicensed massage practice are harsh. Violations can hurt both financially, professionally and personally.

456.066 Prosecution of criminal violations.

The department or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.

History. s. 72, ch. 97-261; s. 85, ch. 2000-160.

**Interpretation:** Practicing without a license in Florida can lead to criminal prosecution. All violations will be reported to the authority for prompt prosecution.

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, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History. s. 71, ch. 97-261; s. 24, ch. 99-7; s. 86, ch. 2000-160; s. 27, ch. 2000-318.

**Interpretation:** There are strict penalties for giving false information for those applying for a massage license in Florida. The applicant will be charged with a felony of the third degree.

456.068 Toll-free telephone number for reporting of complaints.

The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.

History. s. 148, ch. 97-237; s. 24, ch. 97-273; s. 87, ch. 2000-160.

**Interpretation:** Medical complaints may be made by calling 888 419-3456.
Disciplinary proceedings.

Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1)

The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the Department of Health determines after a preliminary inquiry of a state prisoner’s complaint that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the Department of Health may determine legal sufficiency and proceed with discipline. The Department of Health shall be notified within 15 days after the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Notwithstanding subsection (13), the department may investigate information filed pursuant to s. 456.041(4) relating to liability actions with respect to practitioners licensed under chapter 458 or chapter 459 which have been reported under s. 456.049 or s. 627.912 within the previous 6 years for any paid claim that exceeds $50,000. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject’s attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject’s written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the State Surgeon General, or the State Surgeon General’s designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2)

The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term “expeditiously” means that the department complete the report of its initial investigative findings and recommendations concerning the existence
of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3)

As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4)

The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board’s former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department.
The State Surgeon General may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, in consultation with the applicable probable cause panel, must establish a plan to expedite or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(5)

A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The determination of whether or not a licensee has violated the laws and rules regulating the profession, including a determination of the reasonable standard of care, is a conclusion of law to be determined by the board, or department when there is no board, and is not a finding of fact to be determined by an administrative law judge. The administrative law judge shall issue a recommended order pursuant to chapter 120. Notwithstanding s. 120.569(2), the department shall notify the division within 45 days after receipt of a petition or request for a formal hearing.

(6)

The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

(7)

The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8)
Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the State Surgeon General or his or her designee, as appropriate, who shall issue the final summary order.

(9)(a)

The department shall periodically notify the person who filed the complaint, as well as the patient or the patient’s legal representative, of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(b)

In any disciplinary case for which probable cause has been found, the department shall provide to the person who filed the complaint a copy of the administrative complaint and:

1. A written explanation of how an administrative complaint is resolved by the disciplinary process.

2. A written explanation of how and when the person may participate in the disciplinary process.

3. A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action may be taken.

(c)

In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the department which may be relevant to the decision. To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department’s expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10)

The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject’s attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject’s expense, forward to the subject a copy
of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11)

A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a)

No person who reports in any capacity, whether or not required by law, information to the department with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b)

No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee’s or staff member’s report to the department about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c)

In any civil suit brought outside the protections of paragraphs (a) and (b) in which intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party’s reasonable attorney’s fees if intentional fraud or malice is not proved.

(13)

Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

History. s. 68, ch. 97-261; s. 23, ch. 99-7; s. 114, ch. 2000-153; s. 91, ch. 2000-160; ss. 14, 72,
Interpretation: This chapter describes complaints, how they are made, probable cause, and the progress through the court system of Florida. This process is both costly and time-consuming with many negative outcomes for the massage therapist who commits any disciplinary transgressions. Violation of Florida law for massage therapists is serious business. Violations will not be tolerated and will be dealt with promptly.

The failure to include complete laws, rules, and regulations in this summary does not relieve persons from abiding by those laws, rules or regulations

Section 4: Miscellaneous

Learning Objectives:
After completion of this section of the course, the motivated learner should be able to:
- Explain renewal of licensure through CEBroker
- List continuing education requirements for massage therapists
- Name renewal regulations for massage establishments
- Discuss citations

Renewal of licensure

Renewal Information for the Board of Massage Therapy

Prior to renewal, every massage therapist will be required to complete:

- One (1) hour of continuing education for each month or partial month that has elapsed since the issuance of the license for which renewal is sought, up to a maximum of 24 hours for the renewal period.
- Twelve (12) of the continuing education hours shall be taken via live classroom instruction which includes hands-on instruction or demonstration, six (6) hours of which may be performed as pro bono services pursuant to rule 64B7-28.0095, F.A.C. These continuing education hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy & physiology, kinesiology, and/or pathology.
- Two (2) hours must cover instruction in professional ethics. Note: If you are a new licensee and this is your first renewal, you are not required to complete this course for renewal.
- Two (2) hours must cover instruction in the prevention of medical errors.
- Two (2) hours must cover instruction in Florida Laws and Rules (Chapter 480 and 456, Florida Statutes, and Rule Chapter 64B7, Florida Administrative Code. Note: If you are a new licensee and this is your first renewal, you are not required to complete this course for renewal.
- In addition to the hours required above, a course in HIV/AIDS is also required for renewal. It can be for any number of hours.
• The **remaining hours** may include courses on:
  o Communications with clients and other professionals;
  o Insurance relating to third party payment or reimbursement for services;
  o Psychological dynamics of the client-therapist relationship;
  o Risk management, including charting, documentation, record keeping, or infection control (other than the HIV/AIDS course required by section 456.034, F.S.), or massage practice management
  o Four (4) hours credit for adult cardio-pulmonary resuscitation (CPR) provided the course is sponsored by the American Red Cross, the American Heart Association or the American Safety and Health Institute, or is instructed by persons certified to instruct courses for those organizations.

• All courses must be obtained through a Board of Massage Therapy Approved Provider. You may go to [www.CEBroker.com](http://www.CEBroker.com) for listing of approved providers and courses. CEBroker maintains all continuing education credits for massage therapists in Florida.

To view board approved continuing education providers, please visit CE broker.com.

• **Massage Establishment**

A notice for renewal is mailed to each licensee at the last address provided to the Board. Failure to receive this notification does not relieve the licensee of the responsibility of meeting the renewal or continuing education requirements.

**Establishments** - If there have been any changes in either the location or the ownership of a massage establishment, you may download the [application](http://www.CEBroker.com) and submit when completed, along with the appropriate fees to the Board office. Any deletion or addition of an owners' name to or from a massage establishment is considered a change of ownership. (You can not indicate a change of ownership or location of a massage establishment on a renewal notice).

By renewing and submitting the appropriate renewal fees, you are acknowledging compliance with all requirements for renewal. You are responsible for retaining proof of all earned continuing education hours for a period of four (4) years. All massage therapists renewing active licenses are subject to audit and may be asked to show proof of appropriate continuing education.

You should renew as soon as possible when you receive the renewal notice. All renewal applications, with the appropriate fees, must be postmarked on or before the expiration date of the license in order to be considered timely.

Massage therapists are not permitted to practice without proof of current licensure. If you do not have your new license by the expiration date your employer may verify your license at the Health Licensee and Continuing Education Providers Information website. If your license renewal is in progress the status will not be available on the website. You will need to contact us at (850) 488-0595 to verify that your renewal application, with the proper fee, has been received and validated. However, you should be allowed to continue working.
Citations

Violations once issued by the board of massage therapy (BOMT) are referred to as citations. Section 456.077, Florida Statutes gives the BOMT the authority to adopt rules to issue citations for violations in which there is no substantial threat to the public health, safety and welfare or where there is no violation of standard of care involving injury to a patient. A penalty will be assessed in the manner established by this rule. The penalty is a fine or other conditions as established by rule. A citation may be issued within 6 months after the filing of the complaint in lieu of disciplinary procedures stated in section 456.072 FL Statutes.

The citation will include the subject’s name, address, license number, a brief factual statement, the sections of law allegedly violated, and the penalty imposed. The citation will state that the subject may choose, in lieu of accepting the citation, to follow the disciplinary procedures contained in 456.073 FL Statutes. If the subject of the citation disputes the facts stated in the citation, then the disciplinary procedures will be followed. If the subject does not dispute the citation with the Department of Health within 90 days after the citation is served, the citation becomes a public final order. If the violation was a first time offense, the citation does not constitute discipline. A second or subsequent citation will cause disciplinary action against the license.

Below is a list of violations and penalties designated in Rule 64B7-30.004, Florida Administrative Code, by the BOMT for citations:

- Refusing to allow the department to inspect the business premises of the licensee during regular business hours as required by Section 480.046(1)(l), Florida Statutes will result in a penalty of $500.
- Failing to display a license or certificate as required by Rule 64B7-28.008, Florida Administrative Code, will result in a penalty of $250.
- Failing to keep the equipment and premises of a massage establishment in a clean and sanitary condition as required by Section 480.046(1)(m), Florida Statutes, will result in a penalty of $250.
- Failing to maintain property damage and bodily injury liability insurance coverage as required by 64B7-26.003(4), Florida Administrative Code will result in a penalty of $250.
- Practicing with a delinquent license- for less than 30 days- in violation of Section 480.047(1)(a), Florida Statutes, when the license has become delinquent automatically for failure to renew will result in a penalty of $250. Practicing with a delinquent license for more than 30 days will not be considered for a citation violation; but, will be subject to disciplinary action according to Section 456.072, Florida Statutes.
- Violations of the continuing education requirements for licensure renewal of Rule 64B7-28.009, Florida Administrative Code, that did not involve bribery or fraudulent misrepresentation, shall result in a penalty of $25 per hour for each hour deficient in the total hours required.Completion of the hours is also required.
- The first-time failure of a licensee to satisfy continuing education requirements results in a penalty of $250 plus one hour of continuing education for each hour not completed.
within the renewal biennium. These deficient hours must be completed within 90 days from the date the citation is issued.

- Failure of a massage therapist to notify the department/board of a change of address as required by Section 456.035(1), Florida Statutes, will result in a penalty of $250.
- Utilizing false, misleading or deceptive advertising by advertising massage therapy services under a name which a license has not been issued is a violation of Section 480.046(1)(d), Florida Statutes and will result in a penalty of $250.
- Submitting a check that is dishonored by its bank or institution upon which it is drawn is a violation of Section 456.072(1)(h), Florida Statutes and will result in a penalty of $250.
- First-time failure to comply with the HIV/AIDS continuing education requirements of Section 456.034, Florida Statutes or the medical errors continuing education requirement in Section 456.013(7), Florida Statutes, will result in a penalty of $250 for each deficient course. These deficient course requirements must be completed within 90 days of the date the citation is issued.
- Failure to identify to a patient verbally or in writing, which may include wearing a name tag, that a licensee is practicing as a licensed massage therapist violates Section 456.072(1)(t), Florida Statutes and will result in a penalty of $100.

In addition to the penalty amount imposed by the citation, the costs of investigation and prosecution for each offense will be assessed in the citation. These fines and costs must be paid within 90 days from the date the citation is issued. Ignorance is not an excuse for not following the law. Each massage therapist must be responsible for reading the law and understanding the content of Chapters 456 and 480, Florida Statutes and Rule 64B7 of the Florida Administrative Code. These laws are available online at the BOMT website: [www.doh.state.fl.us/mqa/massage](http://www.doh.state.fl.us/mqa/massage).

Discipline cases take up the majority of time at the board’s general business meetings. Examples of common violations include working at an unlicensed massage establishment, failing to include the license number in advertising, working with a license that is delinquent, failing to complete continuing education requirements and sexual misconduct. A common excuse for the first two violations is ignorance of the laws and rules. More than half of all the arrests made in Florida for unlicensed activity in all professions involve unlicensed activity related to massage therapy.

Therapists are often astounded when they hear the amount they will have to pay. Aside from the fine for each particular offense, there is also a charge for the state’s investigative and attorneys’ fees. These additional costs can be several times more than the fine itself. Violating the laws and rules can be not only costly but also result in license revocation. Massage therapists must take the time and make the effort to review the laws and rules and stay current with any changes. To track the progress of any rule changes, go to [www.flrules.org/default.asp](http://www.flrules.org/default.asp). A change is not final until it is posted as final.

**Conclusion**

Massage therapists who want to maintain a successful massage practice in Florida need to be familiar with the laws and rules specific to the many regulations developed by the Florida Board of Massage. Practicing in the state of Florida carries with it many laws and regulations that are
specific to standards of practice. The Board of Massage holds every licensed massage therapist to these standards that have been created with the sole purpose of protecting the public. Each therapist has the responsibility to read and understand Chapter 456 and Chapter 480, Florida Statutes, and 64B7, Florida Administrative Code. The failure to include complete laws, rules, and regulations in this summary does not relieve persons from abiding by those laws, rules or regulations.

References