

RULES AND REGULATIONS
of the
NORTH CAROLINA BOARD of
MASSAGE & BODYWORK THERAPY

(Revised November 15, 2019)

NORTH CAROLINA ADMINISTRATIVE CODE

TITLE 21
OCCUPATIONAL LICENSING BOARDS

CHAPTER 30
BOARD OF MASSAGE AND BODYWORK THERAPY

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NOTES:

Rules are adopted, revised, or repealed according to the North Carolina Administrative Procedures Act, which sets forth the rules making process.

All Sections herein are Permanent Rules approved by the Rules Review Commission.

Throughout this document, "G.S." refers to the North Carolina General Statutes. G.S. 90-620 through 90-636 are the sections of the North Carolina Massage and Bodywork Therapy Practice Act — the law on which these Rules and Regulations are based.

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

.0101 PURPOSE

The purpose of the Rules in this Chapter is to implement the provisions of the North Carolina Massage and Bodywork Therapy Practice Act, as set forth in Chapter 90, Article 36 of the North Carolina General Statutes.

.0102 DEFINITIONS

In addition to the definitions set forth in G.S. 90-622(1) through (5), the following definitions apply:

- (1) Classroom hours of supervised instruction. -- Student learning activities in a training program that is conducted in the physical presence of an instructor who meets the qualifications of Rule .0612.
- (2) Generally accepted psychometric principles and standards. -- Standards for Educational and Psychological Testing (1999, American Psychological Association, American Educational Research Association, National Council on Measurement in Education), and Principles of Fairness: An Examining Guide for Credentialing Boards (Revised 2002, Council on Licensure, Enforcement, and Regulation, National Organization for Competency Assurance) which are hereby incorporated by reference, including subsequent amendments and editions. Copies of the standards may be obtained from The American Psychological Association at 750 First Street, NE, Washington, DC 20002-4242 or online at <http://www.apa.org/science/standards.html>.
- (3) Gross negligence. -- The intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another.
- (4) Incompetency. -- Conduct that evidences a lack of ability, fitness or knowledge to apply principles or skills of the profession of massage and bodywork therapy.
- (5) Licensee. -- A person who holds a valid license issued by the Board to engage in the practice of massage and bodywork therapy.
- (6) Malpractice. -- Conduct in variance with the Standards of Practice set forth in Section .0500 that results in harm to a client or that endangers the health or safety of a client.
- (7) Place of business. -- The primary street location where the licensee provides massage and bodywork therapy. If the licensee provides massage and bodywork therapy only at the location of clients, then it shall be the residence street address of the licensee.
- (8) Practice Act. -- Article 36, Chapter 90 of the North Carolina General Statutes: The North Carolina Massage and Bodywork Therapy Practice Act.
- (9) Reciprocity. -- Pursuant to G.S. 90-630, a provision which shall apply to practitioners of massage and bodywork therapy qualified pursuant to Rule .0304 who reside outside the State.

- (10) Therapeutic, educational, or relaxation purposes. -- Pursuant to G.S. 90-622(3), that which is intended to positively affect the health and well-being of the client, and that does not include sexual activity, as defined in Rule .0508.

SECTION .0200 - APPLICATION FOR LICENSE

.0201 APPLICATION AND SCOPE

(a) Each applicant for a license as a massage and bodywork therapist shall complete an application.

The application shall include the following:

- (1) full name (last name, first name, middle name and maiden name, if applicable);
- (2) name as the applicant wants it to appear on license (must be part or all of applicant's legal name);
- (3) current residence;
- (4) mailing address;
- (5) city, state, zip code and county;
- (6) Social Security Number;
- (7) city and state of birth;
- (8) date of birth;
- (9) telephone number (e.g. home, mobile and business);
- (10) email address;
- (11) trade name or business name (if applicable);
- (12) business address;
- (13) type of license applying for (Regular, License by Endorsement A or License by Endorsement B);
- (14) examination agency (FSMTB, NCCAOM or NCBTMB, if applicable);
- (15) exam taken (MBLEx, NCETMB, NCETM or ABTE, if applicable);
- (16) whether or not a U.S. citizen;
- (17) physical description (gender, height, eye color, race, weight and hair color);
- (18) place of residence for the previous 10 years including date, street address, city, state, zip code and county;
- (19) professional experience for the previous 10 years including date, job title, type of business, hours worked per week, employer's name, address, state, zip code, area code and phone number and reason for leaving, if applicable;
- (20) education (high school, college/university, graduate or professional) including name of educational institution, city, state, zip code, whether or not you were issued a certificate, diploma or degree and month and year of graduation;

- (21) previous or current licensure, registration or certification in another state or territory, including state, license, registration or certification type, license or credential number, date issued and date of expiration;
 - (22) professional affiliations and achievements;
 - (23) whether the applicant has had any of the following situations and explain such instances:
 - (A) charged with, arrested for, convicted of, or plead guilty or no contest to a violation of any law;
 - (B) had a driver's license canceled, suspended or revoked;
 - (C) pending charges in any state or jurisdiction;
 - (D) violated any federal or state statute or rule which relates to massage and bodywork therapy or any other healthcare profession;
 - (E) obtained or attempted to obtain compensation by fraud or deceit;
 - (F) involved in a civil suit related to your practice of massage and bodywork therapy or other healthcare profession;
 - (G) had any judgments entered against you;
 - (H) expelled, fired, asked to resign or otherwise suspended from any educational institution;
 - (I) fired, asked to resign or otherwise suspended from employment;
 - (J) denied a massage therapy license or a license for any other healthcare profession;
 - (K) had a license revoked or suspended;
 - (L) have any formal disciplinary charges pending or action taken by any massage or bodywork therapy licensing board or medical board;
 - (M) been diagnosed with a mental illness;
 - (N) been diagnosed as being dependent on alcohol or drugs;
 - (O) abused alcohol or drugs;
 - (P) been evaluated or treated for mental health or substance abuse issues;
 - (Q) used any drug or alcohol to the extent it adversely affected your professional competence or employment;
 - (24) an attestation under oath before a notary that the information on the application is true and also complete an affidavit of applicant to the Board of all information pertaining to the application.
- (b) This application shall be submitted to the Board and shall be accompanied by:
- (1) One original color photograph of the applicant taken within six months preceding the date of the application of sufficient quality for identification. The photograph shall be of the head and shoulders, passport type, two inches by two inches in size;
 - (2) The proper fees, as required by Rule .0204 of this Section and G.S. 90-629.1(b);

- (3) Documentation that the applicant has earned a high school diploma or equivalent;
- (4) Documentation that the applicant is 18 years of age or older;
- (5) Documentation that the applicant has completed a course of study at a school approved by the Board according to these rules and consisting of a minimum of 500 classroom hours of supervised instruction. If the applicant attended a school that is not approved by the Board, the Board may elect to review that applicant's curriculum on a case-by-case basis. The documentation of such training shall come from a school that is licensed by the educational licensing authority in the state, territory or country in which it operates. In North Carolina the documentation shall come from a proprietary school approved by the Board or a college-based massage program that is exempt from Board approval. The curriculum shall meet or be substantially equivalent to the standards set forth in Rule .0620(2) of this Chapter;
- (6) Documentation that the applicant has achieved a passing score on a competency assessment examination administered by the Board or approved by the Board that meets generally accepted psychometric principles and standards;
- (7) Signed statements from four persons attesting to the applicant's good moral character;
- (8) Fingerprint card executed by a fingerprinting agency, and
- (9) Consent to a criminal history record check by the North Carolina Department of Justice.

.0202 INTERVIEWS

Interviews may be required by the Board if it has questions about the qualifications of an applicant.

.0203 EXEMPTIONS FROM LICENSURE

(a) Persons who are utilizing certain therapeutic techniques may claim exemption from licensure pursuant to G.S. 90-624 (6) or (7) only by meeting one of the following criteria:

- (1) Such persons are practicing techniques that are defined by national organizations that meet the criteria for exemption set forth in either G.S. 90-624 (6) or (7); or
- (2) Such persons are practicing techniques that do not involve any contact with the body of the client; or
- (3) Such persons are practicing techniques that involve resting the hands on the surface of the client's body without delivering pressure to or manipulation of the soft tissues.

(b) Persons who are utilizing exempt techniques along with techniques that are not exempt and constitute the practice of massage or bodywork therapy, as defined in G.S. 90-622(3), are not considered to be exempt and will be required to be licensed.

(c) Pursuant to G.S. 90-623, such exempted practitioners may not hold themselves out to be a massage and bodywork therapist; they may not utilize or promote themselves or their services using such terms as

"massage, massage therapy, bodywork, bodywork therapy," or any other derivative term that implies a soft tissue technique or method.

(d) Services such as herbal body wraps, skin exfoliating treatments or the topical application of products to the skin for beautification purposes are not considered to be the practice of massage and bodywork therapy, as long as such services do not involve direct manipulation of the soft tissues of the body. Those who are utilizing such techniques along with techniques that are not exempt and constitute the practice of massage or bodywork therapy are not considered exempt and will be required to be licensed.

.0204 FEES

(a) Fees are as follows:

(1)	Application for Examination of Requirements for License	\$ 20.00
(2)	License fee	150.00
(3)	License renewal	100.00
(4)	Late renewal penalty	75.00
(5)	Duplicate license	25.00
(6)	Application for Additional Examination of Moral Character	150.00

(b) Fees shall be nonrefundable and shall be paid in the form of a cashier's check, certified check or money order made payable to the North Carolina Board of Massage and Bodywork Therapy.

.0205 TERM OF LICENSE

(a) Initial applications for licensure submitted between October 1 and December 31 shall be granted for two full years, plus the additional period of up to three months. Initial applications submitted between January 1 and September 30 shall pay the full fee, but the initial license period shall be two years, minus the period following January 1.

(b) Pursuant to G.S. 90-632, a license shall be renewed for a term of two years, beginning on January 1 following the initial expiration date.

.0206 BACKGROUND INVESTIGATION REQUIRED FOR APPLICANT

(a) If the Board determines that an applicant for licensure has:

- (1) a pending charge or conviction of a criminal offense or domestic violence, or disciplinary action regarding another occupational license or certification; or
- (2) a civil judgment, termination from employment or dismissal from an educational institution related to criminal behavior, assault or the massage and bodywork therapy or other health care profession, the Board shall investigate the applicant's background.

(b) At the request of the Board, the applicant shall provide all documentation related to the event(s), and shall pay the additional fee set forth in Rule .0204(6) to cover the Board's costs of such investigation.

SECTION .0300 - LICENSING

.0301 PROFESSIONAL DESIGNATIONS

- (a) All licensees shall use the professional title, "Licensed Massage and Bodywork Therapist," or the letters "L.M.B.T." when they are holding themselves out to be a licensee in their professional communications.
- (b) Licensees shall not use any other letters or abbreviations after their name when they are holding themselves out to be a licensee in their professional communications, except those that are conveyed by a degree from an accredited post-secondary institution, a license from another occupational licensing board, or certification from an agency that is approved by the National Commission on Certifying Agencies.
- (c) Licensees may also use other words descriptive of their work, consistent with Rule .0502(1), such as areas of clinical specialty, in addition to their primary identification as a Licensed Massage and Bodywork Therapist.

.0302 DISPLAY OF LICENSE

Licensees shall display their Board-issued original license at the licensees' primary place of practice so as to be visible for inspection by the public. Licensees providing massage and bodywork therapy outside their primary place of practice, or at the location of clients, shall have a Board-issued original license or wallet card available for inspection upon request by the public.

.0303 LICENSE RENEWAL

- (a) Any licensee desiring the renewal of a license shall comply with all continuing education requirements, shall apply for renewal and shall submit the required fee.
- (b) A license that has not been renewed prior to its expiration date is considered expired. An expired license may be reinstated within the first 24 months. All required continuing education for license renewal must be completed before the license is reinstated.
- (c) Licenses expired in excess of 24 months are not renewable. Persons whose licenses have been expired for more than 24 months must apply for a new license.
- (d) Any person whose license has expired and who engages in any massage and bodywork therapy activities governed by the Practice Act will be subject to the penalties prescribed in G.S. 90-634 and G.S. 90-634.1.
- (e) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing education requirement prescribed in 21 NCAC 30.0700. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to

the Board. If approved, continuing education acquired during this extended time period shall not be utilized for future renewal purposes.

.0304 LICENSE BY RECIPROCITY (REPEALED)

Authority G.S. 90-626(9); 90-630; Temporary Adoption Eff. February 15, 2000; Eff. April 1, 2001;
Repealed Eff. December 1, 2009.

.0305 PROVISIONAL LICENSE (EXPIRED)

.0306 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

(a) The Board may deny an application for licensure, or refuse to license an applicant for any of the reasons set forth in G.S. 90-633.

(b) The Board may suspend or revoke the license of a massage and bodywork therapist, or issue a letter of reprimand to a licensee for any of the reasons set forth in G.S. 90-633.

SECTION .0400 - BUSINESS PRACTICES

.0401 ADDRESS OF RECORD

(a) Each licensee shall notify the Board in writing within 30 days of any change of the licensee's current residence street address and primary place of practice. The licensee shall provide in writing to the Board his or her mailing address, email address, and telephone number for the purposes of receiving communication from the Board and for listing in the registry of licensees.

(b) "Primary place of practice" shall mean:

- (1) a licensed establishment owned by the licensee where the licensee provides massage and bodywork therapy; or
- (2) a licensed establishment where the licensee provides massage and bodywork therapy, whether as an employee or independent contractor.

(c) If the licensee provides massage and bodywork therapy only at the location of clients, the primary place of practice is the residence address of the licensee.

.0402 TRADE NAMES

The licensee shall notify the Board in writing of all assumed name certificates filed with any county register of deeds pursuant to the requirements of G.S. 66-68.

.0403 CHANGE OF ADDRESS OR TRADE NAME

All licensees shall notify the Board in writing of each change of trade name or address of record within thirty (30) days of such change.

.0404 ADVERTISING

(a) Any advertisement of massage and bodywork therapy services in any advertising medium as defined herein shall include the licensee's name and license number, whether or not a trade name is used.

(b) Advertising medium shall be defined as any form of written, printed, broadcast or computer-based advertising, or other promotional materials, except a telephone directory listing for which no additional advertising charge is made.

(c) A business or establishment that employs or contracts with massage and bodywork therapists licensed by the Board may advertise on behalf of those licensees, by complying with the requirements of this Rule. As an alternative to the requirement of Paragraph (a) of this Rule, such business or establishment may indicate the listing of the service itself in advertising or other promotional materials, accompanied by the exact phrase: "Provided by North Carolina Licensed Massage and Bodywork Therapists." In this phrase, "North Carolina" may be abbreviated as "N.C."

.0405 PLACE OF PRACTICE

Licensees may only engage in the practice of massage and bodywork therapy at a massage and bodywork therapy establishment that is licensed by the Board or at a location that is exempt from establishment licensure as set forth in G.S. 90-622(3a).

SECTION .0500 - STANDARDS OF PROFESSIONAL CONDUCT**.0501 PURPOSE**

The standards set forth in Section .0500 establish requirements for the safe and effective practice of massage and bodywork therapy. They are intended to protect the public, to preserve the integrity of the profession, and to allow for the provision of massage and bodywork therapy services.

.0502 GENERAL REQUIREMENTS

In the practice of massage and bodywork therapy, licensees shall:

- (1) provide only those services that they have the training and practical experience to perform, and that are designed to benefit the health and well-being of the client;
- (2) deliver treatment that ensures each client's safety, comfort and privacy;
- (3) inform clients of the scope and limitations of massage and bodywork therapy.

.0503 CLIENT ASSESSMENT AND INFORMED CONSENT

Before providing treatment, licensees shall:

- (1) inquire as to the health history and current health status of each client to determine the indications and contraindications for the application of massage and bodywork therapy;
- (2) assess the needs and expectations of the client and designate a treatment;

- (3) obtain the written consent of the client. For the purposes of this Section, "consent" means the therapist has informed the client as to the nature and purpose of the service to be provided, and the client acknowledges that he or she understands the terms under which the treatment is being provided and voluntarily agrees to receive such treatment. The treatment shall be modified only with the consent of the client;
- (4) respect the client's right to refuse, modify or terminate treatment regardless of prior consent given.

.0504 DOCUMENTATION; REFERRALS

The licensee shall:

- (1) maintain documentation for each session, including the date of service, needs assessment, plan of care, observations made, and actions taken by the licensee;
- (2) refer the client to other health care practitioners or other professional service providers when the referral is in the best interest of the client or licensee;
- (3) follow recommendations for the plan of care when receiving a client referral from a medical care provider. Questions or concerns regarding the referrals shall be directed to the referring medical provider.

.0505 CONFIDENTIALITY, ROLES AND BOUNDARIES

In managing the client/therapist relationship, licensees shall:

- (1) maintain the confidentiality of all client information, unless written disclosure is consented to by the client, or required by law or by court order; this shall include protecting the client's identity in all social conversations, advertisements, and in any other manner;
- (2) maintain client files for at least four years after the termination of the client/therapist relationship and store and dispose of client records in a secure manner;
- (3) protect the interests of clients who are minors or who are unable to give informed consent by securing permission from an authorized third party or guardian;
- (4) avoid relationships with the client that could impair professional judgment or result in exploitation of the client.

.0506 DRAPING REQUIREMENTS

Licensees shall adhere to the following requirements, except in the case of treatments where the client remains fully clothed:

- (1) provide draping in a manner that ensures the safety, comfort and privacy of the client;
- (2) maintain a supply of clean drapes, such as towels, sheets, gowns or other coverings, for the purpose of draping the client's body during treatment;
- (3) explain expected draping procedures to the client before treatment; and

- (4) ensure that the following areas are draped during treatment: the gluteal and genital areas for male and female clients, and the breast area for female clients. With voluntary and informed consent of the client, the gluteal and breast drapes may be temporarily moved in order to perform therapeutic treatment to structures in those areas.

.0507 HYGIENE

To maintain a professional standard of hygiene in their practice, licensees shall:

- (1) cleanse their exposed body part used for applying treatment, e.g. hands, elbows, forearms, or feet, before and after each treatment, using a lavatory with hot water or a chemical germicidal product;
- (2) maintain a barrier of unbroken skin on their exposed body part used for applying treatment during each treatment; in the case of broken skin, licensees shall use a finger cot, glove or chemical barrier product to cover the affected area during treatment;
- (3) wear clothing that is clean and professional; maintain personal hygiene;
- (4) maintain all equipment used in the practice of massage and bodywork therapy in a safe and sanitary condition; and
- (5) utilize only those materials furnished for the personal use of the client, including towels, linens, or gowns, that have been laundered or sanitized before reuse, or that are single-use items disposed of after treatment.

.0508 SEXUAL ACTIVITY DEFINED

For the purposes of this Chapter, "sexual activity" shall mean any direct or indirect physical contact, or verbal communication, by any person or between persons which is intended to erotically stimulate either person, or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse. As used herein, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm or ejaculation has occurred.

.0509 SEXUAL ACTIVITY PROHIBITED

To preserve the safety and integrity of the therapeutic relationship, the following requirements shall apply during the period from the beginning of the client/therapist relationship, and continue for six months after the termination of such relationship. Licensees shall:

- (1) not engage in sexual activity, as defined in Rule .0508, between the licensee and the client, whether such activity is consensual or otherwise;
- (2) not engage in or permit any person or persons to engage in sexual activity with a client in a location where the practice of massage and bodywork therapy is conducted;

- (3) not use such location to make arrangements to engage in sexual activity with a client in any other place; and
- (4) define the boundaries of the professional relationship in the event that the client initiates or asks the licensee to engage in sexual activity.

.0510 PROVIDING OR TERMINATING SERVICE

- (a) Licensees shall have the right to provide therapeutic services to whom they choose.
- (b) Licensees shall also have the right to refuse treatment, or to terminate a treatment in progress to protect their own safety and well-being, including situations such as:
 - (1) a client who is abusive; under the influence of alcohol, drugs, or any illegal substance; or otherwise impaired; or
 - (2) A client who has violated the boundaries of the professional relationship by initiating or asking the licensee to engage in sexual activity; or
 - (3) A client who does not disclose all health issues and information.

.0511 BUSINESS AND ETHICAL REQUIREMENTS

In the management and promotion of their practices, licensees shall:

- (1) represent their qualifications, credentials and professional affiliations accurately and completely;
- (2) conduct their business affairs with integrity and avoid actual or potential conflicts of interest;
- (3) refuse any gifts or benefits that are intended to influence a referral, decision or treatment;
- (4) adhere to the advertising requirements of Rule .0404, and promote their practices accurately, avoiding language or images that are misleading;
- (5) provide the client with information on their business policies before commencing treatment, including a list of services available, payment arrangements, appointment scheduling and cancellation requirements; discuss and resolve any questions the client may have about such policies;
- (6) maintain accurate financial records, client records, appointment records, contracts, and legal obligations for at least four years; and
- (7) comply with all applicable municipal, state, and federal laws.

.0512 IMPAIRMENT

In the practice of massage and bodywork therapy, licensees shall not provide therapeutic services to clients when the licensee is under the influence of alcohol, drugs, or any illegal substance, with the exception of prescribed dosage of a prescription medication that does not impair the cognitive, psychological, or motor capacity of the licensee.

.0513 FACILITY REQUIREMENTS

The practice of massage and bodywork therapy shall be conducted in facilities that are safe and sanitary. With the exception of treatments that are given at the location of a client, or treatments given at a temporary location lasting not more than 14 days such as a trade show, sporting event or community festival, licensees shall assure that the facility in which they practice:

- (1) is in compliance with all local building code requirements, state fire safety codes, and state health inspection codes;
- (2) provides toilet and lavatory facilities with hot and cold running water; and
- (3) provides clean shower facilities on the premises, if equipped with a whirlpool bath, sauna, steam cabinet, or steam room.

.0514 INFORMING BOARD OF VIOLATIONS

Licensees with actual knowledge shall inform the Board within 15 days of:

- (1) any person practicing without a license; or
- (2) any violation of the Practice Act when there is a potential for malpractice as defined in Rule .0102(4).

.0515 CONTINUING DUTY TO REPORT CERTAIN CRIMES AND CIVIL SUITS

(a) Licensees with actual knowledge shall report to the Board any and all charges of the following criminal offenses, whether committed by themselves or by other licensees:

- (1) Felonies;
- (2) Crimes that involve moral turpitude;
- (3) Alcohol or drug-related offenses;
- (4) Sexual-related offenses; and
- (5) Assault

(b) Licensees with actual knowledge shall report to the Board any and all convictions of, or pleas of guilty or no contest to the following criminal offenses, whether committed by themselves or by other licensees:

- (1) Felonies;
- (2) Crimes that involve moral turpitude;
- (3) Alcohol or drug-related offenses;
- (4) Sexual-related offenses; and
- (5) Assault

(c) Licensees are under a duty to report to the Board if they are named as a defendant in a civil suit arising out of a licensee's practice of massage and bodywork therapy.

(d) Licensees shall report a charge, conviction, plea in a criminal case, or involvement as a defendant in a civil suit, as set forth in Paragraphs (a), (b), or (c) of this Rule, within 30 days after it occurs.

.0516 TREATMENT IN BODY CAVITIES

A licensee may perform massage and bodywork therapy inside the vaginal or anal cavities of a client provided the licensee complies with the following requirements:

- (1) The licensee has received a written prescription or order from a licensed medical doctor prescribing or ordering the specific massage and bodywork therapy treatment to the soft tissues inside the vaginal or anal cavity;
- (2) Prior to the start of treatment, the licensee obtains written and signed consent from the client for treatment inside the client's vaginal or anal cavities stating that the client has been advised that the client has the right to have another person, provided either by the client or therapist, present in the room while the treatment is being performed and indicating whether the client chooses treatment with a third person present or treatment with only the therapist and the client present;
- (3) Consistent with Rule .0506 of this Chapter, the drape covering the client's pelvic area may be temporarily moved with the voluntary and informed consent of the client in order to perform therapeutic treatment to the structures in that area;
- (4) Consistent with Rule .0507 of this Chapter, the licensee shall use a glove or finger cot made of latex or other impervious material to cover their hand or finger used for treatment within body cavities; and
- (5) The massage and bodywork therapy treatment is performed in conformance with Rule .0509 of this Chapter.

SECTION .0600 - MASSAGE AND BODYWORK THERAPY SCHOOLS**.0601 BOARD APPROVAL**

(a) Any postsecondary school of higher learning, whether in this State or another state or territory that offers a certificate, diploma, or degree program in massage and bodywork therapy may make application for Board approval. Every school shall submit an application to be considered for approval, whether or not such school has been licensed, approved, or accredited by another regulatory agency, accreditation commission, or trade association. A school that operates in more than one location shall submit a separate application for each location.

(b) The Board shall grant approval to postsecondary schools of higher education that meet the standards set forth in this Section. Such approval authorizes the school to offer a certificate, diploma, or degree program in massage and bodywork therapy that prepares individuals to become Licensed Massage and Bodywork Therapists in this State. The approval shall be for a period of one year unless increased pursuant to Paragraph (c) of this Rule. The Board shall maintain a list of approved schools.

(c) In order to maintain approval status, each school shall submit a report by April 1 of the year the school's approval expires. This report shall be on a form provided by the Board, that shall require

documentation of authority to operate pursuant to Rule .0610 of this Section if granted by any entity other than this Board, student enrollments, and any changes in curriculum, instructional staff, or key administrative staff. If a school has remained in compliance with all Board rules for a period of five consecutive years and has no disciplinary action taken against it by the Board for a period of five consecutive years, the Board shall increase the period of approval for that school from one to two years.

(d) An approved school shall notify the Board in writing within 30 days of any change in the school's location address, ownership, controlling interest, key administrative staff, facilities, instructional staff, or curriculum.

(e) The school approval term begins on July 1 and ends on June 30. For the purposes of this Section, this term shall be considered the fiscal year.

(f) If a Board-approved school has not met the requirements for renewal by June 30 preceding the new fiscal year, its approval status shall be deemed expired.

(g) Approval shall be reinstated by the Board if a school whose approval has expired pursuant to Paragraph (f) of the Rule completes its renewal process by July 31 of the fiscal year. A school that has had its approval reinstated by July 31 shall be considered to have maintained its approval status on a continuous basis, pursuant to Paragraph (i) of this Rule.

(h) The Board shall not renew the approval of a school that has not met the approval standards by July 31 of the year in which the school is scheduled to renew.

(i) Pursuant to G.S. 90-629(4), "successful completion of a course of study at a Board-approved school" means that the applicant graduated from a school that maintained its approval status with the Board on a continuous basis during the applicant's time of enrollment.

.0602 DEFINITIONS

In addition to the definitions in G.S. 90-622, the following definitions shall apply to this Section:

- (1) Accredited – means "accreditation" as defined in G.S. 90-622(1).
- (2) Additional location. -- A facility not part of, nor adjoining the facility of an approved school, where an approved school intends to offer a program. Each separate facility location is considered a separate school, requiring a new Application for School Approval to be submitted to the Board in accordance with Rule .0632 of this Chapter.
- (3) Additional program. -- A program that is of a different title, subject matter, or that increases or decreases by more than 10 percent the number of hours of instruction than the program under which the school received its initial approval from the Board. An approved school that intends to offer an additional program shall submit an Application for Additional Program Approval to the Board in accordance with Rule .0633 of this Chapter.
- (4) College – A postsecondary school of higher education that awards an Associate degree or higher.

- (5) Instructor. -- A person who meets the qualifications set forth in Rule .0612 of this Section who is responsible for delivering course content according to curricula established by the school, and who is responsible for managing the classroom environment.
- (6) Key administrative staff. -- The school's program director, director of education, and other administrative staff members who direct key areas such as operations, admissions, financial aid, placement, or student services.
- (7) Massage and bodywork therapy school. -- A postsecondary school of higher education that conducts a program, as defined in this Rule, for a tuition charge. Such institutions may be organized as proprietary schools, that are privately owned and operated by a sole proprietor, partnership, corporation, association, or other entity; or may be postsecondary colleges or universities, whether publicly or privately owned.
- (8) One classroom hour of supervised instruction. -- At least 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 school's instructional staff.
- (9) One year of professional experience. -- In determining the qualifications of administrative or instructional staff members, at least 500 hours of documentable work in the professional job responsibility or subject area in a given year.
- (10) Program. -- A course of study or curriculum consisting of a specified number hours of instruction consistent with the standards set forth in Rule .0620 of this Section that is intended to teach the skills and knowledge necessary for the professional practice of massage and bodywork therapy, as defined in G.S. 90-622(3). Each program of a specified number of instructional hours shall be considered a separate program for the purposes of Board approval, and shall require a separate application for approval.
- (11) Student enrollment. -- The total number of students at an approved school in a designated fiscal year who have begun a program for which they have registered and paid a fee in said fiscal year, and who have completed more than 15 percent of such program.
- (12) Teaching assistant. -- A person who meets the qualifications set forth in Rule .0612 of this Section, who is in the classroom to support the role of the instructor, and who may provide instruction to students only in the presence of and under the direct supervision of the instructor.

.0603 DOCUMENTATION OF SUCCESSFUL COMPLETION

- (a) In order to be acknowledged as having successfully completed a course of study as required by G.S. 90-629(4), an applicant for licensure must submit a transcript to the Board's administrative office.
- (b) Such transcript must document that the applicant has completed all requirements in a course of study that meets the standards set forth in this Section, and shall indicate the following:
 - (1) Passing grades in all courses;

- (2) Dates of attendance;
- (3) Date of graduation or successful completion of the entire program;
- (4) Total number of supervised classroom hours of instruction; and
- (5) Credential awarded, whether a certificate, diploma, or degree.

.0604 APPROVAL DESIGNATION

(a) A school that is approved by the Board may utilize the designation, "Approved by the North Carolina Board of Massage and Bodywork Therapy," or "N.C. Board Approved." An approved school may utilize this designation only to promote a program in massage and bodywork therapy, and shall not utilize this designation to promote any other program.

(b) A school that is in the application process for approval, and that has not been granted approval by the Board, shall not make, publish or promote misleading statements about its approval status.

.0605 SCHOOL INSPECTIONS (EXPIRED)

.0606 TERM OF SCHOOL APPROVAL; FEES (EXPIRED)

.0607 VERIFICATION OF COMPLIANCE

In order to verify that a school is in compliance with the standards for approval set forth in this Section, the Board may inspect a school during the application process or after approval has been granted. Such inspection may include the school's physical facilities, equipment, learning materials, class observation, and records. Such inspection may also include interviews with members of the school's administrative staff, instructional staff, or student body. The Board may also interview or survey graduates of the school or employers of the school's graduates.

.0608 SCHOOL APPROVAL FEES

(a) The fees collected under this Section are intended to cover the administrative costs of the approval program. No fee for approval application, renewal or inspection shall be refunded in the event the application is rejected or the approval suspended or revoked.

(b) Fees for Board approval of schools are as follows:

(1) Request for Application Approval Package	\$ 20.00
(2) Initial application for approval (one program)	2,000.00
(3) Initial application for approval of additional program at same location	750.00
(4) Inspection for initial approval or renewal (one program)	1,500.00
(5) Inspection for initial approval or renewal of additional program, same location	500.00

(6) Renewal of approval (one program)	1,000.00
(7) Renewal of approval (each additional program)	750.00

(c) A school that is required to have more than one inspection in a fiscal year, in order to investigate or verify areas of noncompliance with the standards for school approval, shall pay a fee of fifteen hundred dollars (\$1500) for each additional inspection.

(d) In addition to the inspection fee, schools shall also pay actual expenses for travel, lodging and subsistence necessary to the inspection.

.0609 DISCIPLINARY SANCTIONS; REPORTING REQUIREMENTS

(a) The Board may utilize disciplinary sanctions for schools set forth in Rule .0905(b) if the applicant for approval or holder of such approval:

- (1) fails to maintain, at any time, the requirements for approval set forth in this Section;
- (2) fails to require its students to complete the minimum standards in order to graduate;
- (3) submits documents to the Board that contain false or misleading information;
- (4) fails to allow authorized representatives of the Board to conduct inspections of the school, or refuses to make available to them at any time information pertaining to the requirements for approval set forth in this Section;
- (5) violates any statute or rule required for licensure or approval of that school by its educational licensing authority; or
- (6) violates any applicable rule of this Section.

(b) An approved school that is accredited by an agency recognized by the United States Department of Education (USDE) shall notify the Board in writing within 30 days of any notification it receives from its accrediting agency or the USDE Office of Postsecondary Education of a show cause action, probation action, or denial of accreditation.

(c) An approved school outside the State shall notify the Board in writing within 30 days of any notification it receives from its state, provincial, territorial or national licensing or approval authority of non-compliance with its regulatory standards or disciplinary actions.

.0610 AUTHORITY TO OPERATE

(a) A proprietary school shall provide documentation to the Board that it is licensed or approved by the regulatory authority for schools of massage and bodywork therapy in the state or territory in which it operates or is exempt by statute.

(b) An accredited post-secondary institution outside North Carolina that offers a certificate, diploma, or degree program in the field of massage and bodywork therapy shall have approval from the regulatory authority in the state or territory in which it operates.

.0611 PROGRAM DIRECTOR QUALIFICATIONS AND ADMINISTRATIVE STAFF

(a) A school shall designate one person as the program director. This person may be titled as director, or in the case of programs at post-secondary institutions, department chair or program coordinator. The director is the person directly responsible for all facets of the program's operation, including curriculum, methods of instruction, employment, training and evaluation of administrative and instructional staff, maintenance of administrative records, financial management, recruitment of students, and maintenance of school plant and equipment. The program director or department chair shall have the following qualifications:

- (1) be a graduate of an accredited college or university and hold a baccalaureate degree or have at least five years of professional experience in the field of massage and bodywork therapy; and have at least two years experience as a lead instructor in one or more of the core curriculum courses that are presented in the school's curriculum or have at least two years experience in education administration; or
- (2) possess qualifications that are equivalent to the requirements prescribed in Subparagraph (a)(1) of this Rule.

(b) If the program director does not have experience in either the professional practice of massage and bodywork therapy, or massage and bodywork therapy education, the school shall have a director of education on staff to manage the areas of curriculum and lesson plan development, instructional methods, and training and evaluation of instructional staff. The director of education shall have the following qualifications:

- (1) be a graduate of an accredited college or university and have at least five years of professional experience in the field of massage and bodywork therapy; or
- (2) have at least two years experience as a lead instructor in one or more of the school's core curriculum courses, or have at least two years experience in massage therapy education administration or teacher training.

(c) A school shall have administrative staff to support the number of students enrolled.

.0612 INSTRUCTIONAL STAFF QUALIFICATIONS

(a) The requirements in this Rule are intended to assure that instructors, as defined in Rule .0602 are competent in the fundamental knowledge and methodology of teaching and possess a professional level of skills, knowledge and practical experience in every subject they teach in the program.

(b) Instructors shall be trained in teaching methods, that shall include:

- (1) Presentation skills;
- (2) Development and implementation of lesson plans;
- (3) Dynamics of the teacher/student relationship;
- (4) Management of the classroom environment;
- (5) Evaluation of student performance;

- (6) Instructional strategies for the adult learner;
 - (7) Accommodations for students with special needs; and
 - (8) Knowledge of the school's administrative policies and procedures.
- (c) Instructors shall be trained in the subject taught, and shall have:
- (1) At least two years of professional experience in the subject area; and
 - (2) Received certification to teach a trademarked modality if such certification is available.
- (d) Instructors shall have one of the following professional credentials:
- (1) Be licensed under the practice act for at least two years; or
 - (2) Have a baccalaureate degree from an accredited post-secondary institution with at least 12 semester credit hours of academic course work in the subject area they teach from such institution; or
 - (3) Be a licensed physician, dentist, chiropractor, osteopath, registered nurse, physical therapist, occupational therapist, acupuncturist; or
 - (4) Hold a state license or certification from a state other than North Carolina in massage and bodywork therapy for at least two years; if no such credential is available, hold a valid certification in massage and bodywork therapy for at least two years from an agency whose certification program is accredited by the National Commission for Certifying Agencies.
- (e) Teaching assistants, as defined in Rule .0602 of this Section, shall have the following qualifications:
- (1) Assistants in courses related to the theory and practice of massage and bodywork therapy shall be licensed under the Practice Act, and shall have training in the subject area of the course.
 - (2) Assistants in courses other than the theory and practice of massage and bodywork therapy shall have training in the subject area of the course, in addition to one of the following qualifications:
 - (A) Be licensed under the practice act;
 - (B) Have at least one year of professional experience in the subject area; or
 - (C) Have at least six semester credit hours of academic course work in the subject area from an accredited post-secondary institution.
- (f) A school shall observe, evaluate, and document the performance of every instructional staff member at least annually in each course taught to assure that competency in teaching methods and subject area is maintained.

.0613 APPROVAL PROCESS FOR INSTRUCTIONAL STAFF

- (a) Whenever instructors and teaching assistants, as defined in Rule .0602 are hired, all application documents as described in Paragraph (c) of this Rule must be sent to the Board within 30 days of the hire date.

(b) Instructors with the credentials described in Rule .0612(d)(4) must be approved by the Board according to these Rules before performing their job functions at a Board-approved school. The approval process requires submission of all documents in Paragraph (c) of this Rule and may take up to 30 days from the time the Board receives the documents.

(c) A school shall submit an application for each instructor and teaching assistant on a form provided by the Board, which shall be accompanied by the following documentation:

- (1) Copies of all academic diplomas or degrees;
- (2) Official school transcripts from all post-secondary institutions;
- (3) Copies of occupational licenses and certifications;
- (4) A record of work experience in the field; and
- (5) A record of training in teaching methods.

(d) A school shall demonstrate that each instructor and teaching assistant meets the qualifications set forth in Rule .0612 of this Section.

(e) The requirements of this Rule shall not apply to instructors who provide no more than eight hours of instruction in a program.

.0614 MANAGEMENT OF INSTRUCTORS

(a) A school shall have written job descriptions with performance standards for each instructional position on its staff.

(b) A school shall have an employment agreement or contract with each, instructor, whether such instructor works in a full-time or part-time capacity or is an employee or an independent contractor.

(c) A school shall conduct and document an annual performance review for each instructor.

(d) A school shall maintain a file for all instructors that shall contain their original application for Board approval with all accompanying documentation, current employment agreement or contract, and annual performance reviews. A school shall keep each file current, with copies of their most recent occupational licenses, certifications, documentation of continuing education, and academic transcripts.

.0615 SCHOOL PLANT AND EQUIPMENT

(a) A school plant, premises, and facilities shall be safe and sanitary and shall be in compliance with the statutory provisions and the rules and regulations of all local ordinances pertaining to fire, safety, health, and sanitation. Classrooms shall have sufficient lighting, ventilation, and temperature control to provide a comfortable learning environment for students.

(b) The equipment, supplies, and instructional materials of the school shall be adequate in type, quality, and amount for each course offered by the school. These shall also meet all requirements of statutory provisions and rules and regulations of all local ordinances pertaining to fire, safety, health, and sanitation.

(c) A school shall request an annual inspection from the city or county agencies that determine compliance with requirements for fire, safety, health, and sanitation in its jurisdiction.

(d) For classes conducted in the practice of massage and bodywork therapy, the school shall provide at least 70 square feet of classroom space per treatment table, exclusive of fixed items in the classroom. There shall be one therapy treatment table, adjustable in height, for every two students in such classes.

.0616 FINANCIAL MANAGEMENT SYSTEMS AND ECONOMIC STABILITY

(a) The school shall maintain sufficient resources for its ongoing operations and the discharge of its obligations to the students and staff. To demonstrate this, the school shall:

- (1) Maintain financial management systems that assure reliability, accountability and effective use of financial resources, that provide accurate information for assessing the financial condition of the institution, and that assure the accuracy and security of records.
- (2) Provide annually a review or audit, prepared in accordance with Generally Accepted Accounting Principles. This annual financial statement shall demonstrate that the current assets of the school exceed the current liabilities, and that there was a positive net working capital for the prior year. If the school does not meet the requirements in this Subparagraph, the Board shall require a financial improvement plan, teach-out plan, or form of surety guaranteeing that the resources are sufficient to protect the current students. If the Board determines that the school does not have sufficient resources, it may take disciplinary actions pursuant to Rule .0905(b) of this Chapter up to and including revocation of approval.

(b) The Board may request a credit report on a school from a nationally recognized credit reporting agency.

(c) The school shall maintain professional liability insurance to guarantee the fiscal viability of the school in the case of a claim of malpractice related to massage and bodywork therapy performed as a part of the school's instructional program.

.0617 STUDENT RECRUITMENT

(a) In its recruitment of students, an approved school shall:

- (1) Not use employment agencies to recruit prospective students, or place advertisements in help-wanted sections of classified advertisements, or otherwise lead prospective students to believe they are responding to a job opportunity;
- (2) Ensure that its recruiting agents and other personnel do not make false or misleading statements about the institution, its personnel, its programs, its services, its approval status, its accreditation, or any other pertinent information;
- (3) Inform each student accurately about financial assistance and obligations for repayment of loans;

- (4) Not make explicit or implicit promises of employment or salary expectations to prospective students;
 - (5) Not permit the payment of cash or nonmonetary incentives to any student or prospective student as an inducement to enroll; nor shall it use the word "free" or its synonyms in reference to any equipment, tuition, books, or other items in conjunction with recruiting or advertising;
 - (6) Conduct the recruitment process to ensure that its personnel do not discredit other institutions by
 - (A) falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or similar negative characteristics;
 - (B) making other false representations;
 - (C) disparaging the character, nature, quality, value or scope of their program of instruction or services; or
 - (D) demeaning their students.
- (b) The school shall also ensure that its personnel do not knowingly influence any student to leave another institution or encourage a student to change plans after signing an enrollment application and paying a registration fee to another institution.

.0618 ADMISSIONS

- (a) A school shall maintain admission policies and procedures that are disclosed to the public and administered.
- (b) A school shall conduct an orientation session for persons who have applied for admission or who are considering application for admission. The orientation shall include an overview of the program's educational objectives and curriculum, the academic and physical requirements of the program, existing employment opportunities in the field, the time and financial requirements of the program, and State requirements for licensure.
- (c) Admissions standards shall be designed to ensure that only those applicants are admitted who have the cognitive, motor, and behavioral skills and moral character necessary to complete the program and to practice massage and bodywork therapy in a safe and effective manner.
- (d) A school shall conduct a pre-enrollment interview with each applicant to determine the applicant's qualifications. The information gathered from this interview shall be evaluated with all written documentation submitted by the applicant before the school renders a decision on the application.
- (e) A school shall only admit applicants who are high school graduates or who have earned a General Equivalency Diploma (GED).
- (f) A school shall maintain written documentation of the basis for admission of the student. The records shall include copies of high school diploma, GED, or transcripts, proof of age, and other specific admission requirements of the school.

- (g) Documentation of the reasons for the denial of admission of any student shall be maintained for three years.
- (h) A school shall comply with the admissions standards of this Rule, but may enroll students in individual courses not leading to a credential.

.0619 TUITION, REFUNDS AND FINANCIAL AID

- (a) A school shall disclose tuition, tuition refund policy, and all related program costs to prospective students.
- (b) Tuition policies shall be published in the school catalog or bulletin. Such policies shall address adjustment of charges in the case of:
- (1) cancellation of enrollment within 72 hours of signing a student enrollment agreement;
 - (2) student withdrawal before the program start date;
 - (3) student withdrawal after the program start date;
 - (4) student dismissal; and
 - (5) cancellation of program by the school.
- (c) All students who enroll in the same program shall be charged the same amount for tuition. This does not preclude the school from raising tuition, from granting scholarships, from granting cash discounts to students for advance payment of tuition, or in the case of public institutions, from charging differential rates to residents and non-residents.
- (d) A school shall maintain a refund policy that is in writing and clearly stated. Proprietary schools shall provide the refund policy to each student prior to payment of the tuition. Refunds shall be calculated from the last date of attendance and made within 30 days of the date of withdrawal or dismissal. Programs offered by post-secondary colleges or universities shall follow the refund policy set forth by the applicable governing body or regulatory agency.
- (e) The school catalog or bulletin shall accurately describe any financial aid programs in which the school participates, and shall distinguish in meaning between the terms "scholarship," "grant," "loan," and "financial aid." Schools that administer Title IV funds shall also include in their catalog and all advertising an eligibility phrase such as, "Financial aid available for those who qualify." Schools that do not administer Title IV funds shall not use the term "financial aid."

.0620 PROGRAM REQUIREMENTS

Pursuant to G.S. 90-631(1), programs shall meet the following requirements:

- (1) A school shall develop and adhere to a set of educational objectives that describe the intended skills, knowledge, and attitudes that the program is designed to develop in the student by the completion of the program;

- (2) The program shall have a core curriculum of at least 500 classroom hours of supervised instruction. The core curriculum shall contain the following hours of specific course work that are consistent with the school's mission and educational objectives:
- (a) 200 hours in the fundamental theory and practice of massage and bodywork therapy that is designed to produce comprehensive entry-level skills in the application of direct manipulation to the soft tissues of the human body, and is based in therapeutic methods consistent with the definition set forth in G.S. 90-622(3) such as Swedish massage, acupressure, shiatsu, deep muscle massage, trigger point therapy, and connective tissue bodywork. Of the 200 hours in this category, at least 100 hours shall be in the application of hands-on methods. The balance of the hours shall include client assessment skills, indications and contraindications for treatment, body mechanics, draping procedures, standard practices for hygiene and control of infectious diseases, and the history of massage and bodywork therapy;
 - (b) 100 hours in anatomy and physiology related to the practice of massage and bodywork therapy that shall include the structure and function of the human body and common pathologies;
 - (c) 15 hours in professional ethics, and North Carolina laws and rules for the practice of massage and bodywork therapy;
 - (d) 15 hours in business management practices related to the practice of massage and bodywork therapy;
 - (e) 20 hours in psychological concepts related to the practice of massage and bodywork therapy, including dynamics of the client/therapist relationship, professional communication skills, the mind-body connection, and boundary functions;
 - (f) 150 hours in other courses related to the practice of massage and bodywork therapy. The courses may include additional hands-on techniques, specific applications, adjunctive modalities, in-depth anatomy and physiology, kinesiology, psychological concepts, or supervised clinical practice. First Aid or CPR shall not be included in this category. Techniques that are considered exempt from licensure pursuant to G.S. 90-624(6) or (7), and that are further defined by Rule .0203(a) constitute up to 50 hours of the 150 hours in this category.
- (3) For programs that include a student clinic or fieldwork experiential component, the hours shall not exceed 100 hours of the minimum requirement set forth in Sub-item (2)(f) of this Rule. All work shall be in the presence of and directly supervised and evaluated by an instructional staff member;

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- (4) For programs that include an externship component, the hours shall not be included in the requirements set forth in Item (2) of this Rule, and shall not comprise more than 20 percent of the total program hours. All work at the externship site shall be supervised by a person at the externship site who is acceptable to the school, and shall be monitored and evaluated by the school;
 - (5) The program shall provide curriculum hours that allow its graduates to meet the minimum eligibility requirements for at least one of the competency assurance examinations that are approved by the Board as meeting the licensure requirement set forth in G.S. 90-629(5) and Rule .0201(a)(15);
 - (6) Programs shall consist of a series of courses that are organized in a logical sequence, and that are consistent with the educational objectives. Sequential organization means that within a course, each class prepares students for the next class. Material shall not be not presented unless students have the necessary skills and knowledge to utilize that material;
 - (7) Course titles shall match the content of the course; published course descriptions shall reflect the specific learning objectives of each course; and sufficient hours shall be allotted to each course to allow students to gain competence in the subject areas covered;
 - (8) A course curriculum shall be developed for each course that shows the basic content of each individual class in the course in the sequence presented;
 - (9) Course requirements and competencies shall be consistent from instructor to instructor. Teaching materials, including lesson plans for every class taught, shall be developed and maintained for each course to ensure consistency. Teaching methods shall be appropriate to course content, and to diverse learning styles;
 - (10) Programs shall be at least 24 weeks in length, with no more than nine instructional hours in one day. There shall be no more than two hours of instruction without a break. There shall be no more than four hours of instruction without a meal break;
 - (11) For a student to receive credit in a course, the student shall attend 75 percent of the instructional hours of the course. The student shall also make up missed instructional hours to equal no less than 98 percent of the instructional hours in the course according to the procedures established by the school;
 - (12) A syllabus shall be developed for each course and provided to students prior to the beginning of instruction. The syllabus shall include the following elements:
 - (a) course title;
 - (b) course description;
 - (c) learning objectives;
 - (d) teaching methodologies;

- (e) total number of instructional hours;
 - (f) meeting dates and class times;
 - (g) assignments;
 - (h) textbooks;
 - (i) evaluation methods;
 - (j) quiz and examination dates; and
 - (k) performance standards.
- (13) For post-secondary institutions, courses that fulfill the requirements set forth in Item (2) of this Rule shall support the program in massage and bodywork therapy. Courses in addition to these requirements may include courses from other departments or programs that are relevant to the practice of massage and bodywork therapy; and
- (14) For classes that involve hands-on practice, the student to instructor ratio shall not exceed 16 to 1. Both instructors and teaching assistants, as defined in Rule .0612 of this Section, shall be considered in calculating these ratios.

.0621 STUDENT RECORDS AND ACADEMIC PROGRESS

- (a) A school shall maintain current, complete, and accurate records on each student. The records shall show attendance, academic progress, grades, date entered, dates attended, courses studied, program completed, and date of graduation.
- (b) Records shall be maintained in perpetuity, shall be stored in such a manner as to ensure their confidentiality, and shall be safe from theft, fire, or other possible loss.
- (c) Students and graduates shall be allowed access to their records. Transcripts shall be released upon written request from students and graduates.
- (d) All school policies, including those relating to satisfactory attendance, academic progress, and conduct shall be enforced by the school. Students shall be notified when completion standards are not being met.

.0622 EDUCATIONAL CREDENTIAL ISSUED; GRADUATES' PASS RATE ON NATIONAL EXAMINATIONS

- (a) Upon completion of the program, the student shall be given a certificate, diploma, or degree stating that the educational requirements have been met and the program has been successfully completed.
- (b) Such credentials shall be granted only to students who have completed the entire program for which the student enrolled.
- (c) A school shall authorize agencies that conduct national certification examinations that are accepted by the Board as meeting the requirement of G.S. 90-629(5) to report directly to the Board the pass rate of the school's graduates on such examinations.

.0623 LEARNING RESOURCES

The school shall provide sufficient learning resources to students and instructional staff to support the educational objectives of the program as follows:

- (1) the school shall maintain a resource center that contains or provides access to books, periodicals, and other informational materials in the field of massage and bodywork therapy. As an alternative, the school may have a contractual agreement with another facility to provide access to such resources; and
- (2) all other resources, such as charts, models, or electronic media, shall be maintained.

.0624 STANDARDS OF PROFESSIONAL CONDUCT

(a) The following standards of professional conduct shall apply to instructional staff, key administrative staff and students, and shall apply to all school facilities as well as any other location where staff or students are demonstrating or delivering therapeutic treatments as a part of course requirements:

- (1) Conduct shall be in accordance with Standards of Conduct set forth in Section .0500 of this Chapter.
- (2) Nudity is not permitted where massage and bodywork therapy is taught or practiced. For the purpose of this Section, "nudity" is defined as exposure of the genital or anal area for men or women, or exposure of the breast area for women. The only exception shall be for treatment to the breast area while utilizing therapeutic techniques.
- (3) The school shall provide a private area where persons receiving therapeutic treatments may dress or undress, whether for in-class practice or treatments performed in a student clinic. As an alternative, the school may provide instruction to persons receiving therapeutic treatments in the procedure of undressing while on the treatment table under a full sheet covering.

(b) Members of the instructional Staff or key administrative staff of the massage and bodywork therapy school or program shall not engage in sexual activity, as defined in Rule .0508 and prohibited by Rule .0509 of this Chapter, with students, whether consensual or otherwise. The only exception to this is a personal relationship between a staff member and prospective student that exists before the student applies for enrollment in the school. In such case, the relationship shall be documented in writing and placed in the student's file.

.0625 SCHOOL COMPLAINT POLICY

An approved school shall administer an internal complaint policy for students and staff, and shall maintain a complaint file that provides the following information:

- (1) Person(s) filing complaint and date filed;
- (2) Nature of complaint and person(s) involved;
- (3) Response(s) to complaint by school; and

- (4) Resolution of complaint.

.0626 STUDENT COMPENSATION PROHIBITED

A student shall not receive a fee, tip or other consideration for the massage and bodywork therapy they perform while completing clinical requirements for graduation, whether or not the school charges a fee for services provided in a student clinic.

.0627 TRANSFER OF CREDIT; ADVANCED PLACEMENT

- (a) A school shall not grant transfer credit from another institution unless the following standards are met:
 - (1) The school from where credit is being transferred shall be licensed or approved by the educational licensing authority in the state in which it operates, or be exempt by statute;
 - (2) The school from where credit is being transferred shall provide an official transcript;
 - (3) Courses for which credit is granted shall be parallel in content and intensity to the courses presently offered by the school; and
 - (4) Documentation of previous training shall be included in each student's permanent file.
- (b) A school may only grant advanced placement to a student, or exempt the student from curriculum requirements, based on the student's performance on an examination that the school administers to determine competency in that subject area. Advanced placement or exemption shall not exceed 35 percent of the total number of hours in the program and shall not reduce the total hours attended to less than 500 hours.

.0628 ETHICAL REQUIREMENTS IN ADVERTISING

The following requirements pertain to all advertising and promotional activities conducted by, or on behalf of the school, including such media utilized as print, broadcast, verbal presentations, electronic, internet, videotape, or audiotape:

- (1) educational programs and services offered shall be the primary emphasis of all advertisements, publications, promotional literature, and recruitment activities, whether distributed to prospective students or the general public;
- (2) all statements and representations made shall be accurate and current. Supporting information shall be kept on file and available for review for three years. All advertising and promotional materials shall include the correct name and location of the school;
- (3) a school shall not falsely represent its facilities in photographs, illustrations, or through other means;
- (4) the school catalog or bulletin shall contain all information required in Rule .0630 of this Section;
- (5) all advertising and promotional activities shall indicate that massage and bodywork training and not employment is being offered. No overt or implied claim of individual

- employment shall be made. No false or deceptive statements regarding employment opportunities or earning potential in the field of massage and bodywork as a result of the completion of the course of study shall be used to solicit students;
- (6) letters of endorsement, commendation, or recommendation in favor of a school shall be used for advertising or promotion only with the written consent of the author without any offer of financial compensation, and only when such letters portray current conditions or facts. Letters shall contain the date they were received, shall be kept on file as required by Item (2), and be subject to inspection;
 - (7) programs that use placement information in advertisements, catalogs, or other printed documentation shall corroborate the data;
 - (8) school literature and advertisements shall not quote "high top" or "up to" salaries unless they also indicate the normal range or starting salaries for graduates;
 - (9) schools offering programs that are not approved by the Board shall identify which programs are Board approved;
 - (10) schools shall describe requirements for State licensure;
 - (11) schools shall not defame competitors by falsely imputing to them dishonorable conduct, inability to perform on contracts, or by the false disparagement of the character, nature, quality, values, or scope of their educational services, or in any other defamatory respect.

.0629 STUDENT ENROLLMENT AGREEMENT

(a) An approved school shall execute a Student Enrollment Agreement for training with every student.

The agreement shall contain the following:

- (1) name and telephone number of the school and location of where the student will attend classes;
- (2) student's name, address, telephone number;
- (3) name of the program in which student is enrolling, number of clock or credit hours of the program, beginning and ending dates, length of program in weeks or months, and expected graduation date;
- (4) program tuition and all related costs, including application and registration fees and estimated cost of books and supplies;
- (5) refund and cancellation policies, including student's right to cancel;
- (6) payment methods, including cash, installment payment plans, or financial aid (as applicable); interest charged; and methods used to collect delinquent tuition;
- (7) placement guarantee disclaimer;
- (8) grounds for dismissal from the school;
- (9) statement that you must hold a North Carolina massage and bodywork therapy license in order to practice massage and bodywork therapy in North Carolina;

- (10) statement that good moral character is a requirement for licensure as a massage and bodywork therapist in North Carolina and, pursuant to N.C.G.S. 90-629.1, the North Carolina Board of Massage and Bodywork may deny a license to practice massage and bodywork therapy in an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character;
- (11) statement referencing the school catalog and student handbook as a part of the enrollment agreement;
- (12) statement certifying that student has read and understands all terms of the enrollment agreement; and
- (13) signature lines for school official and student.

(b) A copy of the signed and dated Student Enrollment Agreement shall be provided to the student and a copy shall be placed in the student's permanent file.

.0630 SCHOOL CATALOG

An approved school shall publish a catalog or bulletin that shall be certified by an official of the school as being current, true, and correct in content and policy. All school catalogs or bulletins, in print or online, shall be current and accurate. Updates shall be provided to maintain current information. Printed catalogs or bulletins shall contain addendums of the updates; and online sources, such as websites, shall be continuously updated. The catalog shall include the following information:

- (1) school name, location address, and phone number;
- (2) volume number and date of publication;
- (3) ownership structure, including type of legal entity and names of owners, Board of Directors members, or academic officers at public institutions;
- (4) names and titles of all instructional and key administrative staff;
- (5) statement of school mission, philosophy, and educational program objectives;
- (6) school history and identification of all licenses, approvals, or accreditations that the school maintains;
- (7) definition of measurement of program, whether in clock hours or credit hours;
- (8) course descriptions, including number of hours for each course;
- (9) graduation requirements, including type of credential issued upon graduation;
- (10) requirements for licensure, certification, or registration of therapists in the State;
- (11) standards for admission, description of the school's admissions process, and requirement of a signed Student Enrollment Agreement;
- (12) school calendar, including beginning and ending dates of all programs, all holidays and days off;
- (13) length of time required for completion of the program;

- (14) program tuition and all associated costs, including textbooks, supplies, and other expenses;
- (15) refund policy;
- (16) description of facilities and learning resources;
- (17) student services;
- (18) policy regarding prohibition of compensation to student for performing massage and bodywork therapy;
- (19) Academic policies, including the following:
 - (a) grading system;
 - (b) standards of satisfactory academic progress;
 - (c) description of disciplinary procedures, including conditions for probation, suspension, dismissal or expulsion, and conditions of reentrance for students dismissed;
 - (d) transfer of credit from other institutions;
 - (e) attendance requirements, make-up work, tardiness, leave of absence;
 - (f) standards of conduct, including a sexual harassment policy; and
 - (g) complaint policy, process for complaint resolution, name and address of the school regulatory agency for filing complaints when institutional process does not bring resolution; and
- (20) Statement pursuant to N.C.G.S. 90-629.1 that the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character.

.0631 BOARD APPROVAL NOT TRANSFERABLE

(a) In the event of the change of ownership of a school, the approval already granted to the original owner or operator thereof shall not be transferable to the new ownership or operators. The Board may issue temporary operating approval for a period of up to 180 days to a school upon its change of ownership if the school held a valid, current approval prior to the change, and if the Board finds that the school is likely to qualify after the change of ownership for approval under this Section.

(b) For the purposes of this Section, "change of ownership" includes the following situations:

- (1) Sale of the school;
- (2) Transfer of controlling interest of stock of the school or its parent corporation;
- (3) Merger of two or more schools;
- (4) Transfer of controlling interest of stock to parent corporation;
- (5) Transfer of assets or liabilities of school to parent corporation or owners; or
- (6) Change from profit to non-profit status.

.0632 INITIAL APPLICATION FOR BOARD APPROVAL

A school seeking initial approval shall submit an application for approval on a form provided by the Board that shall be accompanied by the following:

- (1) A certified check for the application fee set forth in Rule .0608 of this Section, made payable to the Board;
- (2) Completed personnel qualification forms on the school director, administrative staff, instructors, and teaching assistants, with photocopies of academic transcripts, degrees, diplomas, and professional licenses and certifications for each person;
- (3) Job descriptions for school director, administrative staff, instructors, and teaching assistants;
- (4) Examples of contracts for administrative and instructional staff;
- (5) Ownership structure of the school, and organizational chart;
- (6) Facility plan, including floor plans with dimensions and fixtures, uses of each room, specifications on lighting, ventilation, and temperature control;
- (7) Equipment list, including furniture, office equipment, and instructional equipment for classroom;
- (8) Copy of deed if school owns its facility, or copy of lease if school does not own its facility;
- (9) Copies of reports from city or county inspections for fire, safety, health, and sanitation, made within the three months prior to submission of application for approval;
- (10) Statement of Financial Affirmation including the following financial documentation:
 - (a) A plan setting forth the sources, kinds and amounts of both current and anticipated financial resources. The plan shall include a budget for the school's first year of operation, identifying sources of revenue to ensure effective operations;
 - (b) A pro forma balance sheet prepared in accordance with Generally Accepted Accounting Principles for the type of institution making application;
 - (c) If the corporation that controls the school is ongoing, the school shall provide a financial statement of the parent corporation, reviewed or audited in accordance with Generally Accepted Accounting Principles, and
 - (d) Schools that are new and do not have a history of educational operations shall provide financial statements of the controlling principals, compiled, reviewed, or audited in accordance with Generally Accepted Accounting Principles. These statements must demonstrate sufficient resources to ensure institutional development.
- (11) Copy of the application for admission that is submitted by prospective students; copies of materials used to document the admission process with applicants;

- (12) Copies of the forms used for documentation of attendance, missed class make-up work, student academic progress, grades earned, notification of unsatisfactory progress and notification of disciplinary action;
- (13) Copy of the educational credential granted to students who complete the program and a transcript issued by the school;
- (14) Documentation of program requirements, including copies of course curricula, copies of course syllabi, one example lesson plan for each course, and school calendar for the current academic year;
- (15) List of student to instructor ratios for each course offered;
- (16) List of learning resources provided by the school, including numbers of books, periodicals, and other informational materials in the school library. If the school has no library, a copy of the agreement for use of another facility, with its list of resources shall be included;
- (17) Copies of all advertisements and promotional materials from the previous year, including website addresses and tapes of broadcast advertisements;
- (18) Copy of the Student Enrollment Agreement issued by the school;
- (19) Catalog Certification Form and copy of the current school catalog or bulletin, with accompanying student handbook (if applicable);
- (20) Agenda for a student orientation program, and a personnel orientation program provided by the school; and
- (21) As applicable pursuant to Rule .0610 of this Section, copy of license or approval to operate school, and copy of certificate of accreditation.

.0633 APPLICATION FOR BOARD APPROVAL OF ADDITIONAL PROGRAMS

An approved school shall submit an application for approval of an additional program on a form provided by the Board, which shall be accompanied by the following:

- (1) A certified check for the application fee set forth in Rule .0608 of this Section, made payable to the Board;
- (2) Documentation of program requirements, including copies of course curricula; copies of course syllabi; one example lesson plan for each course and school calendar for the current academic year;
- (3) A list of student to instructor ratios for each course offered;
- (4) A copy of the educational credential granted to students who complete the program and an example of the transcript issued by the school;
- (5) A copy of the school catalog or bulletin that describes the additional program, and

- (6) Complete documentation of any other requirement set forth in Rule .0632 of this Section that is different than what the school documented in its initial application for approval, or what has been documented in its most recent application for renewal of approval.

.0634 CLOSURE OF SCHOOL; TERMINATION OF A PROGRAM

(a) An approved school which intends to cease operations completely, or which intends to terminate the offering of a program if it offers more than one approved program, shall submit to the Board a written plan for such cessation or termination at least 90 days before such action.

(b) The plan shall include the following information:

- (1) The projected date of cessation or termination;
- (2) The means by which the school will maintain standards for approval until the last student has completed their training or transferred to another institution; and
- (3) The arrangement for storage of permanent student records.

.0635 SCHOOL STAFF MEMBERS AS STUDENTS

If a member of the administrative or instructional staff at an approved school is enrolled as a student in any course within the program, the staff member shall not have any administrative or academic authority over that course.

SECTION .0700 - CONTINUING EDUCATION

.0701 CONTINUING EDUCATION REQUIREMENTS

(a) For the purposes of this Section, "approved continuing education" means a course offered as follows:

- (1) Continuing Education:
 - (A) Includes attendance and participation at a live presentation by an approved provider pursuant to Rule .0702(7) of this Chapter such as a workshop, seminar, conference, or in-service educational program. It may also include participation in other continuing education activities that require a formal assessment of learning, such as an evaluation or survey. Examples include distance learning, electronic, or Web-based courses;
 - (B) There are no maximum contact hours in this category; however, distance learning shall not comprise more than 12 contact hours in this category; and
 - (C) Documentation shall include a certificate of completion or similar documentation including the name of the course, date, author/instructor, sponsoring organization, location, and number of contact hours attended.
- (2) Academic Coursework:

- (A) Includes participation in on-site or distance learning academic courses from a university, college, or vocational technical adult education course in anatomy, physiology, pathology, psychology, pharmacology, massage and bodywork therapy or business management;
 - (B) There are no maximum contact hours in this category; and
 - (C) Documentation shall include an original transcript indicating completion of the course, date, and a description of the course from the school catalogue or course syllabus.
- (3) Small Group Study:
- (A) Includes on-site, in-person review and discussion, by at least two licensed practitioners, of professional medical journal articles, clinical videotapes or audiotapes related to the practice of massage and bodywork therapy;
 - (B) There is a maximum of two contact hours in this category; and
 - (C) Documentation shall include title, author, publisher, time spent, and date of completion. The licensee shall complete the Small Group Study Form provided by the Board on its website at www.bmbt.org and include a statement that describes how the review and discussion relates to the licensee's current or anticipated roles and responsibilities.
- (4) Mentorship Agreement:
- (A) Participation as a Mentee:
 - (i) Participation in a formalized mentorship agreement with a mentor currently licensed by the Board with at least two years of professional experience and as defined by a signed contract between the mentor and mentee provided by or approved by the Board that outlines goals and objectives and designates the plan of activities that are to be met by the mentee. These activities must be related to massage and bodywork therapy skills, knowledge, or practice;
 - (ii) There is a maximum of five contact hours in this category; and
 - (iii) Documentation shall include name of mentor and mentee, copy of signed contract, dates, hours spent and focus of mentorship activities, and outcomes of mentorship agreement.
 - (B) Participation as Mentor:
 - (i) Participation in a formalized mentorship agreement with a mentee as defined by a signed contract between the mentor and mentee that designates the responsibilities of the mentor and goals and objectives that are to be met by the mentee. These activities must be related to massage and bodywork therapy skills, knowledge, or practice;

- (ii) There is a maximum of five contact hours in this category; and
 - (iii) Documentation shall include name of mentor and mentee, copy of signed contract, dates, hours spent and focus of mentorship activities, and outcomes of mentorship agreement.
- (5) Professional Writing:
 - (A) Publication or written acceptance for publication of a book, chapter, or article evaluated by experts in and related to massage and bodywork therapy;
 - (B) During the year written or edited a licensee may earn:
 - (i) 15 contact hours as author of a book;
 - (ii) 10 contact hours as author of a chapter;
 - (iii) Five contact hours as author of an article; or
 - (iv) Five contact hours as listed editor of a book.
 - (C) Documentation shall consist of full reference for publication including title, author, editor, and date of publication; or copy of acceptance letter, if not yet published; and
 - (D) Credit for submitted items shall be given for one licensure period only.
- (6) Presentation and Instruction:
 - (A) Presentation for the first time of an academic course, workshop, or seminar related to massage and bodywork therapy;
 - (B) There is a maximum of five contact hours in this category; and
 - (C) Documentation shall include a syllabus and the date and hours of presentation.
- (7) Professional Meetings and Activities:
 - (A) Consistent with Rule .0703 of this Section, participation in board or committee work with agencies or organizations to promote and enhance the practice of massage and bodywork therapy;
 - (B) There is a maximum of five contact hours in this category; and
 - (C) Documentation shall include the name of the committee or board, the name of the agency or organization, purpose of service, and description of licensee's role. Participation and hours shall be documented in writing by an officer or representative of the organization or committee.
- (8) Research and Grants:
 - (A) Development of or participation in a research project or grant proposal related to massage and bodywork therapy;
 - (B) A licensee may earn one contact hour for each three hours spent working on a research project or grant proposal. There is a maximum of five contact hours in this category; and

- (C) Documentation includes verification stating the name of the research project, dates of participation, major hypotheses or objectives of the project, and licensee's role in the project or name of grant proposal, name of grant source, purpose and objectives of the project, and verification from the grant author regarding licensee's role in the development of the grant if the licensee is not the author.
- (b) Distance learning, as defined in Rule .0702 of this Section, shall not comprise more than 12 hours of the required continuing education hours per licensure period.
- (c) Licensees shall document that they have completed at least three contact hours of continuing education in professional ethics as defined in Rule .0702 of this Section, out of the minimum of 24 hours of approved continuing education required for license renewal. This may be obtained through supervised classroom instruction or distance learning.
- (d) Business management, as defined in Rule .0702 of this Section, shall not comprise more than eight hours of the minimum 24 hours of approved continuing education required for license renewal.
- (e) Licensees shall ensure that each continuing education course for which they claim credit on their application for renewal of licensure complies with this Section.
- (f) The Board shall audit licensees at random to assure compliance with these requirements.

.0702 CONTINUING EDUCATION DEFINITIONS

The following definitions apply to this Section:

- (1) Continuing education -- Learning experiences that develop, maintain, enhance, and expand the performance skills, interpersonal abilities, critical reasoning skills, ethical reasoning skills, knowledge, and attitudes of massage and bodywork therapists that enable them to render competent professional service to clients, the profession, and the public.
- (2) Distance learning -- Courses taken by home study that are produced by an approved provider, whether delivered by videotape, audiotape, printed materials, or computer-based means. The licensee shall demonstrate achievement of learning objectives and completion of course requirements to the provider before credit is given.
- (3) One "contact hour" of continuing education -- At least 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of an instructor, or in a distance learning activity designed by an approved provider. One semester credit hour at a post-secondary institution shall be equivalent to 21 contact hours.
- (4) Professional ethics -- A system of conduct guided by principles that are intended to ensure the safe and effective practice of massage and bodywork therapy. Acceptable subject matter for required professional ethics courses may include: compliance with the

Practice Act and Rules of the Board, management of the client/therapist relationship, boundary functions, professional communication skills, conflict resolution, cultural diversity issues, and standards of practice.

- (5) Business management -- Courses that enable licensees to learn business skills to apply to their practice.
- (6) Post secondary institution of higher learning – A degree granting institution accredited by an accrediting agency recognized by the United States Department of Education.
- (7) Approved provider -- One that has been approved by any entity with which the Board has reached a contractual agreement for the approval of continuing education providers and courses. A list of accrediting entities with which the Board has entered into a contractual agreement is available on the Board's website at www.bmbt.org. The provider shall have this designation when the course begins and shall maintain this designation continuously until the course is completed. The Board shall not recognize any retroactive designation of provider approval. The provider shall follow all regulations set forth by its accrediting agency. The Board may also recognize a continuing education provider outside the United States or its territories that is a post-secondary institution of higher learning approved by the educational regulation authority of that foreign country.

.0703 SCOPE OF QUALIFIED ACTIVITIES FOR MAINTAINING CONTINUING EDUCATION

(a) To be approved by the Board, continuing education activities shall be related to roles and responsibilities in massage and bodywork therapy and serve to protect the public by enhancing the licensee's continuing competence.

(b) Subject matter for approved activities include:

- (1) research;
- (2) theoretical or practical content related to the practice of massage and bodywork therapy;
or
- (3) the development, administration, supervision, and teaching of clinical practice or service delivery programs by massage and bodywork therapists.

SECTION .0800 - RULES

.0801 PETITIONS FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

(a) The procedure for petitioning the Board to adopt, amend, or repeal a rule and for the Board's response is governed by G.S. 150B-20.

(b) Rule-making petitions shall be sent to the Board. No special form is required, but the petitioner shall state his or her name and address. The petition shall include:

- (1) A draft of any proposed rule or amendment to a rule;

- (2) The reason for the proposal;
- (3) The effect of the proposal on existing rules or decisions;
- (4) Any data supporting the proposed rule change;
- (5) Practices likely to be affected by the proposed rule change;
- (6) Persons likely to be affected by the proposed rule change.

.0802 RULE MAKING NOTICE AND PUBLIC HEARING

(a) Any person who wishes to receive individual notice of agency rule making shall file a written request with the Board and shall be responsible for the actual cost of printing and mailing said notice.

(b) Any public rule-making hearing shall be conducted by the Board Chair or by any person he or she may designate. The presiding officer shall have control of the hearing, including setting limits on oral presentations, and shall conduct the hearing so as to provide a reasonable opportunity for any interested person to present views, data and comments.

.0803 DECLARATORY RULINGS

(a) The issuance of declaratory rulings by the Board is governed by G.S. 150B-4.

(b) A request for a declaratory ruling shall be in writing and addressed to the Board. The request shall contain the following information:

- (1) The name and address of the person making the request;
- (2) The statute or rule to which the request relates;
- (3) A concise statement of the manner in which the person has been, or may be aggrieved by the statute or rule; and
- (4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

(c) The Board shall refuse to issue a declaratory ruling under the following circumstances:

- (1) When the Board has already made a controlling decision on substantially similar facts in a contested case;
- (2) When the facts underlying the request for a ruling on a rule were specifically considered at the time of the adoption of the rule in question; and
- (3) When the subject matter of the request is involved in pending litigation in North Carolina.

SECTION .0900 – COMPLAINTS, DISCIPLINARY ACTION AND HEARINGS

.0901 PURPOSE AND SCOPE

The rules in this Section establish the procedures for the Board to use in disciplining practitioners, schools and other persons or entities who are in violation of the Practice Act or the rules in this Chapter.

.0902 COMPLAINTS

A complaint regarding a violation of the Practice Act or the rules in this Chapter shall be submitted in writing and shall document:

- (1) the name of the licensed massage and bodywork therapist, licensed establishment, school, person, or other entity involved;
- (2) a description of the alleged behavior or incident; and
- (3) the name, mailing address, and phone number of the person filing the complaint.

.0903 ACTION ON A COMPLAINT

Action on a complaint consists of the following:

- (1) The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.
- (2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the complaint.
- (3) Investigation:
 - (a) If the facts indicate a Practice Act violation that cannot be verified and the complaint can be handled without an investigation, the Board may request that the licensee or school cease conduct that could result in a Practice Act violation.
 - (b) If the facts indicate a Practice Act violation, the Board shall commence an investigation. The Board may utilize additional personnel such as licensees, law enforcement officials, or other technical personnel that may be required in a particular case. If a Board member is utilized in the investigation, due process must be observed by separating
 - (i) investigation;
 - (ii) prosecution; and
 - (iii) hearings and final decision-making.No Board member shall participate in more than one of these three steps in the enforcement process.
 - (c) A confidential report of each investigation shall be prepared for the Board's review.
- (4) Formal and Informal Hearings:
 - (a) The Board, after review of an investigative file, may schedule an informal meeting.
 - (b) If the matter cannot be resolved informally, then a formal hearing shall be held.
 - (c) Members of the Board shall not make ex parte communication with parties to a hearing.

- (5) Final Orders: Within 60 days, the Board will issue its final decision in writing specifying the date on which it will take effect. The Board will serve one copy of the decision on each party to the hearing.
- (6) Compliance: The Board Chair will cause a follow-up inquiry to determine that the orders of the Board are being obeyed.

.0904 FORMAL HEARING

Formal hearings shall be conducted in accordance with G.S. 150B, Article 3A.

.0905 DISCIPLINARY SANCTIONS

(a) The following types of disciplinary sanctions regarding licensed massage and bodywork therapists and massage and bodywork therapy establishments (licensees) may be utilized by the Board:

- (1) Denial of Application: Refusal to license the applicant;
- (2) Letter of Reprimand: This formal expression of disapproval will be retained in the licensee's file but shall not be publicly announced. It is not published, but is released upon request by the public;
- (3) Probation: A period of time where restrictions or conditions are imposed on a licensee. Continued licensure is subject to fulfillment of specified conditions;
- (4) Suspension of license: A condition of probation. Loss of license for a period after which the licensee shall be required to reapply for licensure or remain on probation;
- (5) Refusal of License Renewal: A refusal to reinstate or renew a license;
- (6) Revocation of license: An involuntary termination of a license;
- (7) Injunction: A court action prohibiting or compelling conduct by a licensee; or
- (8) Assessment of a civil penalty.

(b) The following types of disciplinary sanctions regarding schools of massage and bodywork therapy may be utilized by the Board:

- (1) Denial of Application: Refusal to grant approval to the applicant school;
- (2) Letter of Reprimand: A formal expression of disapproval will be retained in the school's file but shall not be publicly announced. It is not published, but is released upon request by the public;
- (3) Probation: A period of time where restrictions or conditions are imposed on an approved school. Continued approval is subject to fulfillment of specified conditions;
- (4) Suspension of approval: A condition of probation. Loss of approval status for a period after which the school shall be required to reapply for approval or remain on probation;
- (5) Refusal of Approval: A refusal to reinstate or renew a school's approval status;
- (6) Revocation of Approval: An involuntary termination of school's approval status;
- (7) Injunction: A court action prohibiting or compelling conduct by a school; or

- (8) Assessment of a civil penalty.
- (c) During an investigation, the Board may request information from professional associations, professional review organizations (PROs), hospitals, clinics or other institutions in which a licensee performs professional services, regarding chemical abuse or incompetent or unethical behavior.
- (d) During an investigation, the Board may request information from state regulatory agencies, accrediting commissions, or other institutions that oversee the activities of a school.
- (e) The Board shall provide notice of sanction taken by it to other public entities to ensure that other state boards, national certification boards, professional associations, enforcement authorities, and accrediting agencies receive the names of licensees and schools disciplined.

SECTION .1000 – MASSAGE AND BODYWORK THERAPY ESTABLISHMENT LICENSURE

.1001 ESTABLISHMENT LICENSE REQUIRED

- (a) For purposes of the rules in this Chapter, "establishment" means "massage and bodywork therapy establishment" as defined in G.S. 90-622.
- (b) An establishment license granted by the Board shall be for a single location. An owner who intends to operate additional locations shall submit an application for licensure for each location.
- (c) Establishments already in operation on the date this Section becomes effective shall have 180 days from the effective date to submit an application for licensure to the Board.

.1002 TERM OF LICENSE

- (a) Initial establishment license applications submitted between October 1 and December 31 shall be granted for two years, plus an additional period of up to three months. Initial establishment license applications submitted between January 1 and September 30 shall be granted for two years, minus the period following January 1.
- (b) Pursuant to G.S. 90-630.5, an establishment license shall be renewed for a term of two years, beginning on January 1 following the initial expiration date.

.1003 INITIAL APPLICATION FOR LICENSURE

A massage and bodywork therapy establishment seeking initial licensure shall submit an application on a form provided by the Board containing the information set forth in G.S. 90-632.11 and the following:

- (1) Ownership information, including:
 - (a) type of ownership structure;
 - (b) names, residence addresses, phone numbers, and email addresses of all persons who have an ownership interest in the establishment, including parent corporations; and

- (c) if the operator is not the owner, the operator shall provide the information required in Rule .1004.
- (2) Location information, including:
 - (a) Physical address of the establishment, and mailing address if different;
 - (b) Website address, if any; and
 - (c) Business phone number.
- (3) Trade name of establishment, if different from owner's name;
- (4) List of all LMBTs hired as employees or contracted with as independent contractors to provide treatment to clients, if known, or, if not known, submit to the Board within 60 days following granting of a license to operate;
- (5) Copy of lease or name, address, phone number and email address of lessor, if establishment does not own its facility;
- (6) Copy of city or county business license, if required; and
- (7) Completed self-evaluation inspection report demonstrating compliance with Rule .1004.

.1004 ESTABLISHMENT OPERATIONS

Licensed establishments shall comply with the following requirements:

- (1) Facility requirements:
 - (a) comply with State and local building code requirements, State fire safety codes, and State health inspection codes;
 - (b) provide for the use of clients and therapists a restroom with at least one toilet and one sink with running water. The facilities shall be equipped with toilet tissue, a 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. Restroom and shower facilities shall be lighted, ventilated, and maintained. Establishments located in buildings housing multiple businesses under one roof, such as shopping malls, terminals, or hotels, may substitute centralized toilet facilities;
 - (c) if equipped with a whirlpool bath, sauna, steam cabinet, or steam room, maintain shower facilities on the premises; and
 - (d) display the original Massage and Bodywork Therapy Establishment License, and the licenses of all LMBTs in a place at the establishment so as to be visible for inspection by the public.
- (2) Safety and sanitary requirements:
 - (a) provide for human passage in the public areas of the premises;
 - (b) provide for removal of garbage;
 - (c) provide for storage or removal of flammable materials;

- (d) exterminate all vermin, insects, termites, and rodents on the premises;
 - (e) maintain all equipment used to perform massage and bodywork therapy services on the premises. Clean sheets, towels, or other coverings shall be used to cover the massage table for each client; and
 - (f) maintain a supply of clean drapes, towels, gowns, or sheets, for the purpose of draping each client while the client is being massaged, and launder before reuse all linens furnished for the personal use of the client.
- (3) Treatment requirements:
- (a) All massage and bodywork therapy treatments shall be administered by LMBTs licensed in North Carolina; and
 - (b) The establishment is responsible for ensuring that the Standards of Professional Conduct set forth in Section .0500 of this Chapter are maintained in its facility by all owners, employees, and independent contractors.
- (4) Business and advertising requirements:
- (a) notify the Board in writing of all assumed name certificates filed by the establishment owner with any county register of deeds pursuant to the requirements of G.S. 66-71.1 through 66-71.15;
 - (b) notify the Board within 30 days of changes to the LMBT staff who provide massage and bodywork therapy services at the establishment, including employees and independent contractors; and
 - (c) advertisement of massage and bodywork therapy services shall include the establishment's name and license number.

.1005 CLIENT RECORDS RETENTION AND OWNERSHIP

- (a) Records shall be maintained by the establishment or the LMBT in compliance with Rules .0504 and .0505 of this Chapter.
- (b) Records stored electronically shall be maintained with a weekly back-up system.
- (c) Client records are the property of the:
 - (1) Establishment; or
 - (2) LMBT, when working at an establishment.
- (d) Release of Records:
 - (1) Client records shall be released within 30 days from being requested and authorized by the client in writing or when compelled by law or rule; and
 - (2) The establishment or LMBT may charge cost for duplicating client records pursuant to G.S. 90-411.

.1006 INSPECTIONS

(a) Upon receipt of an application for a massage and bodywork therapy establishment license, employees or representatives of the Board may inspect the location upon allegations of violations of the Practice Act and Rules to verify Rules .1003 and .1004 of this Chapter are satisfied.

(b) The Board may inspect all licensed establishments upon allegations of violations of the Practice Act and Rules to ensure compliance with the Practice Act. Inspectors shall respect the client's safety, comfort, and privacy.

(c) During any inspection, if the posted establishment license is expired, suspended, or revoked, the establishment license shall be removed from the establishment by the inspector and returned to the Board, and the owner whose license was expired, suspended, or revoked shall be notified by the Board. During any inspection, if any license for a massage and bodywork therapist posted in the establishment is expired, suspended, or revoked, the massage and bodywork therapist license shall be removed from the establishment and shall be returned to the Board by the inspector. The person whose license was expired, suspended, or revoked shall be notified and a hearing scheduled if requested by that person.

.1007 CHANGE OF TRADE NAME

When there is no change of owner or location, the owner may change the trade name of the establishment in compliance with Rules .0402 and .0403 of this Chapter. The owner shall notify the Board in writing of the change of name. A new trade name shall not be used until the establishment is in compliance with this Rule. When an establishment trade name is changed without a change in owner or location, a new establishment facility inspection shall not be required.

.1008 CHANGE OF LOCATION

An establishment license shall not be transferable when there is a change in the physical location of the establishment. The owner shall submit a new application for licensure. The Board may issue temporary operating approval to the owner for the new location for a period of 90 days if the establishment held a valid license prior to the change, and the Board finds that the new location will qualify for licensure upon preliminary review of the application.

.1009 TRANSFER OF OWNERSHIP

(a) When there is a transfer in the majority ownership interest of the business, the new majority owner shall submit a new application for licensure. The Board may issue temporary operating approval to the new majority owner for a period of 90 days, if the establishment held a valid license prior to the change and the Board finds that the new majority owner will qualify for licensure upon preliminary review of the application.

(b) When there is a transfer of ownership that does not involve a change in the majority ownership interest in the business, or a change in the ownership structure, the owner shall notify the Board of the

changes within 30 days, and submit fingerprint cards as required by G.S. 90-632.11 for new persons with ownership interests.

.1010 INFORMING BOARD OF VIOLATIONS

(a) Establishment licensees with knowledge of alleged violations of the rules of this Chapter or the Practice Act shall inform the Board within five business days, whether or not the alleged violations are also reported to a law enforcement agency. This shall include, but is not limited to, the following violations:

- (1) An LMBT or other employee or contractor of the establishment who has violated the prohibition on sexual activity, as defined in Rules .0508 and .0509 of this Chapter;
- (2) An LMBT who has engaged in behavior where there is a potential for malpractice as defined in Rule .0102(6) of this Chapter; or
- (3) Any person practicing massage and bodywork therapy without a license.

(b) Establishment licensees that have discharged an LMBT for cause, related to failure to uphold the Standards of Professional Conduct set forth in Section .0500 of this Chapter shall inform the Board within 10 business days of the action.

.1011 CONTINUING DUTY TO REPORT CERTAIN CRIMES AND CIVIL SUITS

(a) Establishment licensees shall report to the Board any charges, convictions of, or pleas of guilty or no contest to the following criminal offenses, whether committed by themselves, employees, independent contractors, or by other licensees:

- (1) felonies;
- (2) crimes that involve moral turpitude;
- (3) alcohol or drug-related offenses;
- (4) sexual-related offenses; and
- (5) assault.

(b) Establishment licensees shall report to the Board if they are named as a defendant in a civil suit arising out of a licensee's practice of massage and bodywork therapy or out of the practice of massage and bodywork therapy by any employee or independent contractor.

(c) Establishment licensees shall report a charge, conviction, plea in a criminal case, or involvement as a defendant in a civil suit, as set forth in Paragraphs (a) or (b) of this Rule, within 30 days after the licensee obtains knowledge.

.1012 LICENSE RENEWAL

(a) Any establishment licensee renewing a license shall comply with all requirements for licensure and shall submit the required renewal fee pursuant to G.S. 90-632.14(a)(3).

(b) An establishment license that has not been renewed prior to its expiration date is expired and shall submit an initial application for licensure pursuant to Rule .1003 of this Chapter.

(c) Any owner whose establishment license has expired and who engages in or permits any massage and bodywork therapy activities governed by the Practice Act shall be subject to the penalties prescribed in G.S. 90-634 and G.S. 90-634.1.

(d) Members of the armed forces whose establishment licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted that same extension of time to pay the establishment license renewal fee. A copy of military orders and the extension approval by the Internal Revenue Service shall be furnished to the Board to be granted the extension of time to pay the renewal fee.

.1013 ADDRESS OF RECORD

Each licensed establishment shall notify the Board in writing within 30 days of any change of the street address of the licensee's current place of practice and the owner's residence or business address. The establishment shall provide to the Board the mailing address and telephone number of the owner for the purposes of receiving communication from the Board and for listing in the registry of licensed establishments.