

Department of Health
Notice of Rulemaking Hearing
Tennessee Massage Licensure Board
Division of Health Related Boards

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-18-111. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 25th day of April, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Chapter 0870-1, General Rules Governing Licensed Massage Therapists and Establishments, is amended by deleting from the language of this chapter all references to T.C.A. §§ 63-18-201 through 63-18-214 and substituting instead references to T.C.A. §§ 63-18-101 through 63-18-114, and is further amended by deleting from each rule's statutory authority citations all references to T.C.A. §§ 63-18-201 through 63-18-214 and substituting instead references to T.C.A. §§ 63-18-101 through 63-18-114.

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

Rule 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by deleting part (2) (b) 2. in its entirety and substituting instead the following language, and is further amended by renumbering the present subpart (2) (b) 2. (i) and the present part (2) (b) 3. as parts (2) (b) 3. and (2) (b) 4., so that as amended, the new part (2) (b) 2. shall read:

- (2) (b) 2. A license issued to an individual who owns a massage establishment is not transferable and is subject to revocation or other disciplinary actions upon failure of any inspection or for refusal to allow inspection by the Board's authorized representatives.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-105, 63-18-108, and 63-18-111.

Rule 0870-1-.04, Licensure and Provisional Licensure Process, is amended by adding the following language as new subparagraph (1) (i) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting parts (2) (a) 1. and (2) (d) 2. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (i) and the new parts (2) (a) 1. and (2) (d) 2. shall read:

- (1) (i) An applicant shall cause to be submitted to the Board's Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (a) 1. Complied with all provisions of paragraph (1) except subparagraphs (1) (f) and (1) (p);
- (2) (d) 2. Submit the fees required by subparagraph (1) (k) to the Board's Administrative Office;

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-104, 63-18-108, and 63-18-111.

Rule 0870-1-.05, Establishment Licensure Process, is amended by deleting adding the following language as new paragraph (9) and renumbering the remaining paragraphs accordingly:

- (9) An applicant shall cause to be submitted to the Board's Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111.

Rule 0870-1-.12, Continuing Education, is amended by deleting subparagraph (4) (g) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (g) shall read:

- (4) (g) Each sponsor of a continuing education course must provide a certificate to each participant. Records maintained by the program sponsor for the purpose of verifying attendance and compliance of the continuing education obligation must have at least the following information: Licensee's name, license number, total number of continuing education clock hours awarded, name of sponsor, program title, and date(s).

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

Rule 0870-1-.17, Advertising, is amended by deleting subparagraph (4) (p) but not its parts and substituting instead the following language, so that as amended, the new subparagraph (4) (p) but not its parts shall read:

- (4) (p) Failure to include the corporation, partnership or individual licensee's name in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111.

New Rules

Chapter 0870-2

General Rules Governing Massage Therapy Educational Programs

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0870-2-.01 Definitions. As used in this chapter, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Board – Tennessee Massage Licensure Board
- (2) Program – any massage therapy program or school
- (3) THEC – Tennessee Higher Education Commission
- (4) NCETMB – National Certification Examination for Therapeutic Massage and Bodywork

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.02 Program Approval and Curriculum Requirements.

- (1) Massage therapy programs must receive written approval from the Tennessee Massage Licensure Board.
- (2) Application Process
 - (a) Massage therapy programs seeking approval must submit an application which provides the following information a minimum of thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application,
 1. Name of parent institution and authority for operations;
 2. Authorization from the Tennessee Higher Education Commission (THEC). Proof of authorization must be submitted with the application;
 3. Location of principal clinical facilities;
 4. Locations of all satellite facilities;
 5. Names and license number of all licensed teaching staff and the director of the program;
 6. Curriculum vitae, including professional license numbers and description and explanation of any prior disciplinary action taken against a license, for all teaching staff, including the director;
 7. Maximum class size;
 8. Submission of the program catalog; and

9. Submission of other such information that the Board may deem necessary.
- (b) The program director shall appear before the Board as part of the initial approval process. The curriculum shall be presented at the meeting.
- (3) The Board-approved program shall adhere to the following minimum standards:
 - (a) Instructor/student ratio shall be one (1) instructor to every ten (10) working students for any hands-on class;
 - (b) The program curriculum shall include, but not be limited to, the topics contained in the current NCBTMB examination, its successor and/or other approved examination, content outline at the time of admission of the student. The program shall, at a minimum, consist of five hundred (500) classroom hours and must contain:
 1. Two hundred (200) classroom hours of sciences including, but not limited to, anatomy, physiology-Western and/or/Eastern, kinesiology, pathology, HIV/AIDS, and blood-borne pathogens, and hygiene (including standard precautions). Other sciences related to the human body may be included with Board approval.
 2. Two hundred (200) classroom hours of basic massage theory and practice including, but not limited to, history, benefits, indications, contraindications, demonstration and supervised practice, client assessment/evaluation, soft tissue manipulations including: gliding, kneading, friction, compression, vibration, percussive, stretching, joint movements, draping, positioning, turning, feedback, charting/documentation, proper body mechanics, and self-care.
 3. Eighty-five (85) classroom hours of the five hundred (500) classroom hour requirement shall consist of related subjects including, but not limited to, business standards of practice, communication skills, CPR/First Aid, the Americans with Disabilities Act, referral methods, specialized populations, and specialized and adjunct therapies/modalities (including hydrotherapy).

4. Ten (10) classroom hours of the five hundred (500) classroom hour requirement shall consist of ethics courses.
 5. Five (5) classroom hours of the five hundred (500) classroom hour requirement shall consist of courses regarding Tennessee massage statutes and regulations.
- (c) The program catalog, program syllabus, policies, procedures and the NCTMB handbook or brochure regarding the examination, its successor and/or other approved examination, current content outline and eligibility criteria, are to be distributed on or before the first (1st) class session.
 - (d) If books are provided by the program, the books on a particular subject shall be distributed prior to the class on that subject;
 - (e) The program must inform each student of the requirements for licensure and must specifically include the provisions regarding criminal convictions.
 - (f) The program must have a written policy on the accepted pass-fail rates or grading system used by the program.
 - (g) The program must have a written protocol or policy on the mechanism to evaluate a student's performance. At least one (1) evaluation is required within the first half of the program.
 - (h) The program must have a written policy on the dismissal of students.
 - (i) The program shall create and maintain records on each student, including official transcripts, in compliance with the rules of the Tennessee Higher Education Commission
 - (j) Upon request, a copy of the transcript shall be provided to the student upon completion of or withdrawal from the program. The student must comply with the enrollment agreement to receive a copy.
 - (k) The transcript shall include the following at a minimum:
 1. The program name;
 2. Name of the student;

3. Subjects covered in the program;
 4. Grades for each subject;
 5. Signature of an authorized program/school official;
 6. Date issued;
 7. Date of graduation; and,
 8. Number of contact hours completed.
- (l) The Board shall be notified of any change in directorship and/or instructors within ten (10) days of hire or discharge. Documentation of the training and experience of any new hires must be received within ten (10) days of hire.
- (m) The Board shall be notified immediately of any changes made in the operation of the school such as a change of ownership, location, and/or approval status with THEC;
- (n) The program must inform the students of the requirements for licensure, specifically addressing the statutory provisions regarding criminal convictions;
- (o) Board approval and subsequent re-approvals shall be issued annually. Application for re-approvals shall meet all requirements of this rule;
- (p) At any time, designees of the Department of Health or other state agencies shall be provided full access to program materials, examinations, and the classroom during instruction. Failure to provide access pursuant to this provision may subject the provider to withdrawal of program approval.
- (q) A member of the Board or a Board designee may issue preliminary program approval subject to subsequent Board ratification.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.03 Withdrawal of Program Approval. Program approval may be withdrawn if the Board finds the program in violation of any of its statutes or regulations or if the Board finds the program inadequate for certification purposes based upon random

auditing of the program an/or its effectiveness in producing qualified graduates. The minimum standard for continued program approval shall be at least seventy percent (70%) of the students over at least a six (6) month period passing the licensure examinations on the first (1st) attempt.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.04 Program Admission Requirements

- (1) Students must be at least eighteen (18) years old;
- (2) Students must have either a high school diploma or GED certificate;
- (3) Students must be legally entitled to live and work in the United States; and
- (4) Students may not have been convicted of the offense of prostitution or sexual misconduct.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.05 Minimum Standards for Directors, Instructors and Classrooms.

- (1) Program Director and Instructors
 - (a) Program Director – The program director of the massage therapy program must be currently licensed in Tennessee as a massage with at least five (5) years experience. The experience must be from working as a licensed/registered massage therapist in this state or another state.
 - (b) Instructors – Instructors must be currently Tennessee licensed professionals in their appropriate profession if such profession requires licensure. If the instructor is required to be licensed in order to practice his/her profession, the instructor may teach only principles and concepts from that profession. They must have a minimum of practical experience within three (3) of the past seven (7) years within the subject area to be taught.
 - (c) Instructors must disclose any prior disciplinary action to the program and the program shall so notify the Board. The Board may deny approval of a program based upon an instructor's past disciplinary history.

- (d) The program director shall establish an evaluation system to evaluate the performance of each instructor.
- (e) The program director shall ensure that staff meetings are held to discuss progress of students, policies and procedures for the school, and changes to the statutes and rules of the Tennessee Massage Licensure Board which will affect its students.
- (f) The program director is responsible for the conduct of the instructors and students and any violation of the rules or statutes may result in the discipline of the program director's license, the withdrawal of program approval and/or the assessment of civil penalties.

(2) Classrooms

- (a) The classroom size must accommodate the number of students enrolled in the program, and;
- (b) The classroom must be appropriately equipped to promote effective instruction.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.06 Program Policies and Procedures.

(1) Infectious Disease Management

- (a) The program must have a written policy on infectious disease management and infection control;
- (b) The policy must be in compliance with all applicable state and federal regulations and guidelines, and;

(2) Emergency Management

- (a) Protocols are to be established to ensure the safety of instructors, students, clients, and the public in the event of an emergency;
- (b) First aid/emergency kits are available at all times, and
- (c) All instructors must be continuously certified in basic life support.

(3) Fire and Safety

- (a) All programs must comply with local and state fire codes.
 - (b) Written fire and safety procedures shall be made available to each student. Pertinent fire safety procedures shall be displayed in conspicuous places.
- (4) Sexual Harassment
- (a) All programs must have a written policy on sexual harassment to address situations between instructors, clients, and students.
 - (b) The policy must be in compliance with all applicable state and federal regulations and guidelines, and;
 - (c) The policy must be reviewed with and distributed to all instructors, staff, and students.
- (5) Equal Employment Opportunity Commission (EEOC) - All programs must abide by the requirements imposed by the EEOC.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.07 Annual Report. The program shall file an annual report with the Board.

- (1) The report shall contain:
 - (a) the number of students enrolled;
 - (b) the number of students graduated;
 - (c) the number of students dismissed or withdrawn;
 - (d) the number of students sitting for the licensure test; and
 - (e) the percentage of students taking the test for the first (1st) time and passing the licensure test.
- (2) A copy of the report filed with THEC is deemed to meet the requirements of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Massage Licensure Board.



Robbie H. Bell, Director
Health Related Boards

Subscribed and sworn to before me this the 15th day of February, 2005.



Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28 day of Feb, 2005.



Riley C. Darnell
Secretary of State

By:



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