

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #4

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WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV MASSAGE THERAPY LICENSURE BOARD TITLE NUMBER: 194

CITE AUTHORITY: §30-37-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: GENERAL PROVISIONS

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Dewayne Vas

Authorized Signature

SCANNED

FILED

TITLE 194
LEGISLATIVE RULES
MESSAGE THERAPY LICENSURE BOARD

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WEST VIRGINIA
SECRETARY OF STATE

SERIES 1
GENERAL PROVISIONS

§194-1-1. General.

1.1. Scope. -- ~~These rules establish~~ This rule establishes procedures for conducting the business of the Licensure Board, as well as establishing licensing procedures.

1.2. Authority. -- W. Va. Code 30-37-6.

1.3. Filing Date. --

1.4. Effective Date. --

§194-1-2. Definitions; Massage Therapy Board Fund; Expenses; Disposition of Funds.

~~2.1. A Resort spa means a facility that has been operating on a continuing basis since the first day of January, one thousand nine hundred seventy five, which has a mineral spring located on its premises that persons utilize for bathing or other therapeutic use, and which provides therapeutic massage.~~

~~2.2. Employees of a resort spa who conduct therapeutic massages on the resort spa's premises are exempt from the licensing requirements of this rule.~~

~~2.3.~~ 2.1 All fees shall be made payable to the West Virginia Massage Therapy Licensure Board and deposited by the Board in their its account established in the state treasurer's office.

~~2.4.~~ 2.2 Members of the board shall receive the following compensation for their administration of the Board:

~~2.4.a.~~ 2.2.a ~~Each member shall receive one hundred dollars (\$100.00) for each meeting attended to conduct the business of the Board. The members of the board shall receive the same compensation and expense reimbursement for their services as is paid to members of the Legislature for interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof of a day that the board member engaged in the discharge of official duties.~~

~~2.4.b. 2.2.b~~ Each member shall receive reimbursements for all expenses incurred in conducting the business of the Board, and meeting the requirements for such travel as set down in the provisions of W. Va. Code 30-1-11. The member may be reimbursed for his or her actual and necessary expenses incurred for each day or portion thereof of a day that the board member is engaged in the discharge of official duties in a manner consistent with the guidelines of the travel management office of the department of administration.

§194-1-3. Requirements for Licensure.

3.1. The applicant ~~must~~ shall complete the application forms provided by the Board and supply the following information:

3.1.a. personal information and;

3.1.b. ~~payment of fees~~ the fee required by Board and one (1) of the following:

3.1.b.1. an official letter proving graduation from a program of massage therapy education approved by a state agency in another state, the District of Columbia or a United States territory which approves educational programs, and which meets qualifications for the National Certification Exam administered through the National Certification Board for Therapeutic Massage and Bodywork or the West Virginia state college system board approved massage education both requiring a diploma from an accredited high school or the equivalent and completion of at least five hundred (500) hours of supervised academic training using a current Board approved curriculum; or

3.1.b.2. proof that the applicant has been employed or self-employed as an actively practicing massage therapist prior to the first day of December, one thousand nine hundred ninety-four verified by signed and notarized affidavits from at least five (5) different clients unrelated to the applicant and who received massage therapy from the applicant prior to the first day of December, one thousand nine hundred ninety-four, and other evidence acceptable to the board, which may include a photocopy of tax return for 1994; or

3.1.b.3. a photocopy of a current certificate of the National Certification Board for Therapeutic Massage and Bodywork (NCTMB) exam.

3.2. Licensed massage therapists applying for renewal ~~must~~ shall complete the application form provided by the Board with the following information:

3.2.a. personal information;

3.2.b. ~~payment of fees~~ the fee required by the Board; and

3.2.c. documentation of completion of twenty five (25) continuing education units (CEU'S) within the two (2) year licensing period that adhere to the NCTMB NCBTMB guidelines.

3.3. The board may issue a reciprocal license at it's discretion.

3.4. A Massage therapists therapist licensed outside of WV applying for reciprocal WV licensure, must shall complete the application ~~form(s)~~ forms provided by the Board with the following: ~~information;~~

3.4.a. personal information;

3.4.b. a photocopy of their his or her current or most recent license;

3.4.c. any information regarding any pending or prior investigations or disciplinary actions pertaining to ~~such~~ his or her licensure. This shall include statements from any and all states in which the applicant is currently or formerly licensed,

3.4.d. documentation of the applicant's continuing education units (CEU'S) completed in the last two (2) years; and

3.4.e. ~~for an applicants~~ applicant who are is Nationally Certified, ~~shall submit~~ a photocopy of ~~their~~ his or her current National Certification Board for Therapeutic Massage and Bodywork certificate.

~~3.5 Applicants who apply for a two (2) year provisional license must complete the application form provided by the Board with the following information:~~

~~—3.5.a. personal information;~~

~~—3.5.b. verification of current practice by submitting signed and notarized affidavits from five (5) different clients unrelated to the applicant and who received massage therapy from the applicant in 1998;~~

~~—3.5.c. official letter(s) proving completion of at least two hundred fifty (250) hours of massage therapy training;~~

~~—3.5.d. signed and notarized statement that applicant is working towards taking the National Certification Exam administered through the National Certification Board for Therapeutic Massage and Bodywork within the next two (2) years, or a photocopy of their application to take an upcoming National Certification Exam; and~~

~~—3.5.e. the fee required by the Board~~

3.5. Massage therapists applying for a renewal or reciprocal license ~~must~~ shall meet the current standards for continuing education hours required to conform to the National Certification Board for Therapeutic Massage and Bodywork guidelines.

~~3.6. The board may issue a provisional license at its discretion.~~

3.6. An Applicant Applicant who ~~apply~~ applies for a license in West Virginia and who is not licensed in any other state, the District of Columbia or a United States territory or any other country or province ~~must~~ shall meet the requirements as set forth in subsection one of this rule.

3.7. All ~~licensed massage therapist licensees~~ licensees and those applicants who apply for a license in West Virginia are required to keep or have a record of continuing education units (CEU'S) including the title (of the class), (workshop, etc.), the date, place, number of hours of instruction, instructor's name, sponsor, and the person to call to verify attendance (sponsoring group or instructor). The board may audit a certain number of licensed massage therapists may be audited every two (2) years, and may ask applicants may be asked to provide the information listed above in this subsection.

3.8. The board may audit any All applicants ~~are subject to an audit~~ applicant to verify credentials or request information ~~requested by the board, at its discretion.~~

3.9. Each ~~licensed massage therapist licensee~~ licensee shall publicly display ~~their~~ his or her current valid license at ~~their~~ his or her primary work site ~~(or copy thereof)~~ . A duplicate license, issued by the Board, shall be displayed at their his or her secondary place of employment.

§194-1-4. Duties of Board; Authorization to Propose Rules and Fees.

4.1. The Board shall grant a license to any applicant who meets all the requirements as set forth in ~~these rules-~~ this rule.

4.1.a. The Board may suspend, revoke or impose probationary conditions on a licensee who fails to comply with the requirements of this rule.

4.1.b. A license shall include at least the following information: the licensee's full name; the date of issuance; the seal of West Virginia; the license number; and the signature of the Chairperson or the Secretary of the Board.

4.2. A Massage therapists therapist applying for renewal, or reciprocal or ~~provisional~~ license ~~shall~~ must meet the current standards for continuing education hours required under the National Certification Board for Therapeutic Massage and

Bodywork (NCBTMB) guidelines. Failure to comply with the current standards for continuing education as required by NCBTMB, ~~shall be~~ is grounds for revocation or suspension under the provisions of this rule.

~~4.3 The holder of a massage therapy license shall comply with the following requirements:-~~ A licensee shall:

4.3.a. Maintain documentation of compliance with all applicable state or local government regulations;

~~4.3.b. Massage therapy shall be conducted~~ Conduct massage therapy only in rooms which are adequately lighted and ventilated, and which are kept clean. Restroom facilities with a toilet, sink with hot and cold running water, soap, and clean towels and adequate toilet tissue must be available;

4.3.c. Maintain a reasonable effort for sanitation ~~shall be maintained~~ for temporary locations such as athletic events or public service fund raisers in temporary venues;

4.3.d. Maintain all All equipment and supplies used to perform massage services in a safe and sanitary condition. Lotions, creams, and oils ~~must~~ shall be kept free of possible bacterial contamination.

4.3.e. ~~A licensee shall~~ Wash their his or her hands in hot, soapy water or other antibacterial substance before and after each massage therapy treatment;

4.3.f. ~~A licensee shall~~ Launder, before reuse, all materials furnished for the personal use of the massage therapy client, such as towels, linens and any draping materials; and

4.3.g. ~~Before proceeding with the massage of a client, each massage therapist shall have explained~~ explain expected draping techniques and provide the client a clean drape or drapes for the purpose of covering the body in accordance with generally-accepted standards of practice.

4.4. ~~All licensed massage therapists must~~ A licensee shall acknowledge and sign an agreement to uphold the Code of Ethics adopted by the National Certification Board for Therapeutic Massage and Bodywork.

4.5. Each applicant for licensure is responsible for paying the appropriate fees ~~as obtained-~~ specified in this rule.

4.6. The fees authorized to be established by the board and necessary to the operation of the board are as follows:

4.6.a. Application fee -- Twenty-five dollars (\$25.00) -- a non-refundable fee to be paid by all applicants for a massage therapy license including those seeking reciprocal or provisional license.

4.6.b. Two (2) year licensure renewal fee -- One hundred dollars (\$100.00) -- a fee to be paid prior to the issuance of the license. This fee must be received by ~~April 30~~ June 30 of the renewal year or by the end of the month before the license expires. (see 4.7). This fee is non-refundable after issuance of license.

4.6.c. Two (2) year license fee -- Two hundred dollars (\$200.00) -- a fee to be paid at the time of application for initial OR reciprocal license. This fee does not include the twenty-five dollars (\$25.00) application fee. This fee is non-refundable after issuance of a license.

4.6.d. Late fee -- Twenty-five dollars (\$25.00) -- a non-refundable fee to be paid when a licensee fails to submit application and fees on or ~~before April 30~~ after July 1 or the date the license expires. This is in addition to the other required fees.

4.6.e. Duplicate or replacement license fee -- Ten dollars (\$10.00) -- a non-refundable fee to be paid when ~~an individual~~ a licensee requests a replacement for a lost or destroyed license, renewal or duplicate license.

~~4.6.f. Two (2) year provisional license fee -- Two Hundred Twenty-five dollars (\$225.00) a fee to be paid at the time of application for a provisional license. This fee is non-refundable after issuance of a license.~~

4.6.f. Certified statement fee -- Ten dollars (\$10.00) -- a fee to be paid at the time of request the board verify that a licensee is licensed in West Virginia.

4.6.g. Failure to report change of address fee in writing fee -- Ten dollars (\$10.00) -- a fee that is to be paid by the applicant when ~~they have~~ he or she has failed to notify the Board in writing within thirty (30) days of changing their his or her address.

4.6.h. Failure to report name change in writing fee -- Ten dollars (\$10.00) -- a fee that is to be paid by the applicant when ~~they have~~ he or she has failed to notify the Board in writing within thirty (30) days of changing their name.

4.6.i. Roster fee -- ~~Twenty-five dollars (\$25.00)~~ Fifty dollars (\$50.00) -- a fee that is to be paid by at the time of the request for a copy of the roster of current licensed massage therapist therapists.

4.6.j. ~~One hundred dollars (\$100.00) Prorated license fee a fee that is to be paid by the applicant when license is issued for a year or less for initial or reciprocal license.~~ License fee for a new license issued after the effective date of these rules this rule. Two hundred dollars (\$ 200.00) These The license will be renewable two (2) years from the end of the month it was issued . This fee is non-refundable after issuance of a license.

4.6.k. Photocopy per page fee -- a twenty-five cent (\$.025) per page photocopying fee shall be paid at the time information is requested.

4.7 All licenses issued prior to the effective date of these rules will expire on July 1st every two (2) years. A new license issued under subdivision 4.6.j of this section will expires two (2) years from the end of the month it was issued.