

WEST VIRGINIA SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

2001 JUN 27 A 11:29

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Massage Therapy Licensure Board TITLE NUMBER: 194

RULE TYPE: Massage Therapy Procedural, CITE AUTHORITY WV Code 30-37-2

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 NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 27, 2001 AT 8:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

1101 6th Ave, Suite 222

Huntington, WV 25701

Attention : WVMTLB

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Chair: *Wenayra Vass*
by Laurie Franklin

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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Chair: *Dawson*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WV Secretary of State
Joseph Manchin III
Administrative Division

To whom it may concern,

This is to inform you that some changes were made in the Procedural Rules Series I. Some changes were needed to bring Massage Therapy to a better standard of education and to adhere with future changes with the National Certification Board of Massage Therapy and Bodywork in the next years to come.

This is a statement of circumstance

WV Secretary of State
Joseph Manchin III
Administrative Division

To whom it may concern,

This is to inform you that these are a review and changes of the General Provisions Rules for the West Virginia Massage Therapy Licensure Board. This rules will handle the Massage Therapy Board fund, requirements for licensure and fees and duties of the Board.

This is a summary of findings.

Title 194
Legislative Rules
Massage Therapy Licensure Board

Series 1
GENERAL PROVISIONS

FILED

2001 JUN 27 A 11: 29

OFFICE WEST VIRGINIA
SECRETARY OF STATE

194-1-1. **General**

1.1. **Scope.** These rules establish procedures for conducting the business of the Licensure Board, as well as establishing licensing procedures.

1.2. **Authority.** WV Code 30-37-6

1.3. **Filing Date -** June 27, 2001

1.4. **Effective Date -** July 27, 2001

194-1-2. **Definitions; Massage Therapy Board fund; expenses; disposition of funds.**

~~2.1. "Resort spa" means a facility that has been operating on a continuing basis since the first day of January, one thousand nine hundred seventy, 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~~

~~2.3-1. All fees shall be made payable to the West Virginia Massage Therapy Licensure Board and deposited by the Board in their account established in the state treasurer's office.~~

~~2.4.2. Members of the board shall receive the following compensation for their administration of the Board:~~

~~2.4-2.(a) Each member shall receive \$100 for each meeting attended to conduct the business of the Board.~~

~~2.4-2.(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 section eleven, article one, chapter thirty.~~

194-1-3. **Requirements for licensure.**

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

3.1.a. personal information, **and**

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

3.1.b.1. 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 **and** the West Virginia state college system board approved massage education **and** the West Virginia Massage Therapy Licensure Board requiring a diploma from an accredited high school or the equivalent **and** completion of an approved curriculum and must graduate with five hundred (500) hours supervised training at this time with an increase to seven hundred and seventy-five(775) hours of supervised training effective March 1, 2003 and with an increase to one thousand (1000) more or less hours supervised training at the West Virginia Massage Therapy Licensure Board discretion.

and

~~3.1.b.2. 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 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.3.2. photocopy of current certificate of the National Certification Board for Therapeutic Massage and Bodywork (NCTMB) exam.~~

3.1.b.3. An applicant who as been licensed or certified in another country shall comply with the National certifying examination and the West Virginia guidelines as in section 3.1.b.1.

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

3.2.a. personal information,

3.2.b. payment of fees required by the Board, and

3.2.c. documentation of completion of twenty five (25) continuing education units (CEU'S) with at least one (1) CEU in ethics and one hundred (100) hours of hands on work within the two year licensing period that adhere to the NCTMB guidelines.

3.2.d. A massage Therapist whose certificate has lapsed may reinstate his or her license within one year period by payment of the current renewal fee and the late renewal fee and completion of continuing educations required and hands on work.

3.2.e. A massage therapist whose license has elapsed for more than one

year period shall file an reinstatement application and pay for reinstatement fee.

3.2.f. A massage therapist whose license was suspended or revoked may apply for reinstatement by filing a reinstatement application and paying the fee for reinstatement after suspension or revocation.

3.2.g. The board may require evidence that the massage therapist is prepared to resume practice in a competent manner.

3.3. Massage therapists licensed outside of WV applying for reciprocal WV licensure, must complete the application form(s) provided by the Board with the following information:

3.3.a. personal information,

3.3.b. photocopy of their current or most recent Massage Therapy license, must have met requirements as in section 3.1.b.1. and

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

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

3.3.e. applicants who are ~~Nationally Certified~~, shall submit a photocopy of their current National Certification Board for Therapeutic Massage and Bodywork certificate.

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

~~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 affidavits from five 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 statements 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. payment of fees required by the Board.~~

~~3.6.5~~ Massage therapists applying for renewal or reciprocal license renewal must meet the current standards for continuing education hours required to conform to the National Certification Board for Therapeutic Massage and Bodywork guidelines and the West Virginia college system and the West Virginia Massage Therapy Licensure Board.

~~3.7. The Board may issue a provisional license at its discretion.~~

~~3.8.6.~~ Applicants who apply for a license in WV and who are not licensed in any other state, the District of Columbia or a United States territory or any other country or province must meet the requirements as set forth in subsection one.

~~3.9.7.~~ All licensed massage therapist and those applicants who apply for a license in WV 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). A certain number of licensed massage therapists may be audited every two (2) years, and applicants may be asked to provide the information listed above.

~~3.10.8.~~ All applicants are subject to an audit to verify credentials or other information requested by the Board, at its discretion.

~~3.11.9.~~ Each licensed massage therapist shall publicly display their current valid license at their work site (or copy thereof).

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.

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: full name, date of issuance, seal of WV, license number, signature of Chairperson and/or Secretary of Board.

4.2. Massage therapists applying for renewal, or reciprocal license 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 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:

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

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

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

4.3.e. All licensees shall wash their hands in hot, soapy water or other antibacterial substance before and after each massage therapy treatment.

4.3.f. All licensees shall launder, before reuse, all materials furnished for the personal use of the massage therapy client, such as towels, linens and any draping materials.

4.3.g. Before proceeding with the massage of a client, each massage therapist shall have explained 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 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 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. Twenty-five to seventy-five (\$25 to \$75) dollars-- Application fee-- 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. One hundred to two hundred (\$100 to \$200) --Two year licensure renewal fee-- a fee to be paid prior to the issuance of the license. This fee must be received by April 30 of the renewal year. This fee is non refundable after issuance of license.

4.6.c. Two hundred to four hundred (\$200 to \$400) dollars -- Two year license fee-- a fee to be paid at the time of application for initial OR reciprocal license. This fee does not include the twenty-five to fifty (\$25 to \$50) application fee.

This fee is nonrefundable after issuance of license.

4.6.d. Twenty-five to fifty (\$25 to \$50) dollars-- Late fee-- a non-refundable fee to be paid when a licensee fails to submit application and fees on or before April 30. This is an addition to the other required fees.

4.6.e. Ten to twenty (\$10 to \$20) dollars-- Duplicate or replacement license fee-- a non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed license, renewal or duplicate license

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

4.6.g.f. Ten to twenty (\$10 to \$20) dollars-- Certified statement fee -- a fee to be paid at the time of request that a licensee is licensed in West Virginia.

4.6.g. Fifty to one hundred and fifty(\$50 to \$150) dollars--Renewal fee for inactive license.

4.6.h. Ten to twenty (\$10 to \$20) dollars-- Failure to report change of address fee in writing fee- a fee that is to be paid by the applicant when they have failed to notify the Board in writing within thirty (30) days of changing their address.

4.6.i. Ten to twenty (\$10 to \$20) dollars-- Failure to report name change in writing a fee that is to be paid by the applicant when they have failed to notify the Board in writing within thirty (30) days of changing their name.

4.6.j. Twenty-five to one hundred (\$25 to \$100) dollars-- Roster fee- 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.

4.6.k. Twenty-five to one hundred(\$25 to \$100)-- 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. This fee is nonrefundable after issuance of license.

4.6.l. Photocopy per page fee--a twenty-five to fifty cent(\$0.25 to \$0.50)per page photocopying fee shall be paid at the time information is requested.

4.6.m. Twenty-five to fifty (\$25 to \$50) dollars --Failure to report name of business where massage therapist work . A fee to be paid by the applicant when they failed to notify the Board in writing within thirty (30) days.

4.7 . All licenses will expire on July 1st every two years.