

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED
APR 26 8 55 AM '99
OFFICE OF THE SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: WV Massage Therapy Licensure Board TITLE NUMBER: 194

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: One

TITLE OF RULE BEING PROPOSED: Massage therapy Licensure Rules

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) 269

SECTION 64-9-8, PASSED ON March 12, 1999

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: April 26, 1999

Anna Peltan
Authorized Signature

\$3.00

Title 194
Legislative Rules
Massage Therapy Licensure Board

Series 1
GENERAL PROVISIONS

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

APR 26 8 55 AM '99

011 990

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 - _____

1.4 Effective Date - _____

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 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 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.

2.3 Members of the board shall receive the following compensation for their administration of the Board:

(d) Each member shall receive \$100 for each meeting attended to conduct the business of the Board.

(e) 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:

- (a) personal information, **and**
- (b) payment of fees required by Board **and one (1) of the following:**

- (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 **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 hours of supervised academic training, **or**
- (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 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) photocopy of current certificate of the National Certification Board for Therapeutic Massage and Bodywork (NCTMB) exam.

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

- (a) personal information,
- (b) payment of fees required by the Board, and
- (c) documentation of completion of twenty five (25) continuing education units (CEU'S) within the two year licensing period that adhere to the NCTMB guidelines.

- .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:

- (a) personal information,
- (b) photocopy of their current or most recent license,
- (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,
- (d) documentation of applicant's continuing education units (CEU'S) completed in the last two (2) years, **and**
- (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.
- .5 Applicants who apply for a two year provisional license must complete the application form provided by the Board with the following information:
- (a) personal information,
 - (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,
 - (c) official letter(s) proving completion of at least 250 hours of massage therapy training,
 - (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**
 - (e) payment of fees required by the Board
- .6 Massage therapists applying for renewal or reciprocal license must meet the current standards for continuing education hours required to conform to the National Certification Board for Therapeutic Massage and Bodywork guidelines.
- 3.7 The board may issue a provisional license at it's discretion.
- .8 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.
- .9 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 All applicants are subject to an audit to verify credentials or other information requested by the Board, at its discretion.
- .11 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.**

.1 The Board shall grant a license to any applicant who meets all the requirements as set forth in these rules.

- b. The Board may suspend, revoke or impose probationary conditions on a licensee who fails to comply with the requirements of this rule.
- c. A license shall include at least the following information: full name, date of issuance, seal of WV, license number, signature of Chairperson or Secretary of Board.

.2 Massage therapists applying for renewal, reciprocal, or provisional 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:

- a. Maintain documentation of compliance with all applicable state or local government regulations.
- 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.
- c. Reasonable effort for sanitation shall be maintained for temporary locations such as athletic events or public service fund raisers in temporary venues.
- 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.
- e. All licensees shall wash their hands in hot, soapy water or other antibacterial substance before and after each massage therapy treatment.
- 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.
- 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 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.

.5 Each applicant for licensure is responsible for paying the appropriate fees as obtained in this rule.

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

- g. \$25 Application fee- a non-refundable fee to be paid by all applicants for a massage therapy license including those seeking reciprocal or provisional license.
- h. \$100 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.
- i. \$200 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 \$25 application fee. This fee is nonrefundable after issuance of license.
- j. \$25 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 in addition to the other required fees.
- k. \$10 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.
- l. \$225 Two 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.
- m. \$10 Certified statement fee - a fee to be paid at the time of request that a licensee is licensed in West Virginia.
- n. \$10 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 30 days of changing their address.
- o. \$10 Failure to report name change in writing fee - a fee that is to be paid by the applicant when they have failed to notify the Board in writing within 30 days of changing their name.
- p. \$25 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.
- q. \$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.
- r. Photocopy per page fee- a \$.025 per page photocopying fee shall be paid at the time information is requested.

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

5556

1 Bill-Massage

H. B. 2555

2

(By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

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[Introduced February 1, 1999; referred to the
Committee on Government Organization then the
Judiciary.]

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10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section twenty-nine, relating to
14 authorizing the massage therapy licensure board to
15 promulgate a legislative rule relating to massage
16 therapy licensure.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section twenty-nine, to read as follows:

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

1 §64-9-29. **Massage therapy licensure board.**

2 The legislative rule filed in the state register on
3 the seventh day of May, one thousand nine hundred
4 ninety-eight, under the authority of section six, article
5 thirty-seven, chapter thirty, of this code, modified by the
6 massage therapy licensure board to meet the objections of
7 the legislative rule-making review committee and refiled in
8 the state register on the twenty-second day of July, one
9 thousand nine hundred ninety-eight, relating to the massage
10 therapy licensure board (massage therapy licensure, 194 CSR
11 1), is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Massage Therapy Licensure Board to promulgate a legislative
15 rule relating to Massage Therapy Licensure.

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17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.