

Florida Laws and Rules Home Study Course

2 CE Hours
Text and Online Study Guide

Presented by the:
Center for Massage Therapy Continuing Education

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It is the responsibility of the practitioner to determine the appropriateness of the principles presented in terms within the scope of practice. This information is in no way meant to diagnose or treat medical conditions.

Instructions for the Florida Laws and Rules Home Study Course

Thank you for investing in the Florida Laws and Rules home study course, a 2 CE hour course designed to further your knowledge in the principles and practices of The Florida Laws and Rules (Chapter 480 and 456, Florida Statutes and Rule Chapter 64B7). This course lists and outlines the Florida Laws and Rules Chapters 480 and 456 and The Florida Statutes and Rules Chapter 64B7 which govern the practice of massage therapy and massage establishments in the state of Florida. These and other governing laws and rules can be found on the State of Florida's website at: <http://floridasmassagetherapy.gov/> under the Resources link.

The following will give instructions on what you will need to do to complete this course. This is a 2 CE hour course, so that means it should take you approximately 2 hours to read the text, login and complete the examination.

The following are steps to follow in completing this course:

- 1. Read the instructions and review the text and exam.**
- 2. Access the online examination in your account at www.massagetherapyceu.com.**
- 3. Complete your examination and print your certificate. The exam is open book and there is no time limit for completion.**

You must pass the exam with a 70% or better to pass this home study course. You are allowed to access and take the exam up to 3 times if needed. There is no time limit when taking the exam. Feel free to review the text while taking the exam. There are no trick questions on the exam. All of the answers are clearly found in the text. The exam is also included at the end of the text for review before taking the exam.

It is advised to answer the exam questions in the study guide before testing online. That way, when you are testing you do not have go back and forth through the online exam.

Good luck as you complete this course. If you have any questions please feel free to contact us at 866-784-5940, 712-490-8245 or info@massagetherapyceu.com. Most state boards require that you keep your "certificate of achievement" for at least four years in case of audit. Thank you for taking our Florida Laws and Rules home study course.

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Florida Laws and Rules Text

CHAPTER 480

MESSAGE PRACTICE

The following is the entire chapter 480 massage practice act as written by the Florida Legislature. This act outlines:

- Why the practice of massage therapy is regulated
- How the board members are selected
- The minimum qualifications needed to become a licensed massage therapist
- How license renewal is handled
- The examination process for licensure
- Regulation of massage establishments
- Fees
- Grounds for disciplinary action by the board
- Advertising of massage services
- Penalties and prohibited acts
- Required documentation

480.031 Short title.

This act shall be known and may be cited as the "Massage Practice Act."

480.032 Purpose.

The Legislature recognizes that the practice of massage is potentially dangerous to the public in that massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Massage is therapeutic, and regulations are necessary to protect the public from unqualified practitioners. It is therefore deemed necessary in the interest of public health, safety, and welfare to regulate the practice of massage in this state; however, restrictions shall be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market. Further, consumer protection for both health and economic matters shall be afforded the public through legal remedies provided for in this act.

480.033 Definitions.

As used in this act:

1. "Board" means the Board of Massage Therapy.
2. "Department" means the Department of Health.
3. "Massage" means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.
4. "Massage therapist" means a person licensed as required by this act, who administers massage for compensation.
5. "Apprentice" means a person approved by the board to study massage under the instruction of a licensed massage therapist.

6. "Colonic irrigation" means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.
7. "Establishment" means a site or premises, or portion thereof, wherein a massage therapist practices massage.
8. "Licensure" means the procedure by which a person, hereinafter referred to as a "practitioner," applies to the board for approval to practice massage or to operate an establishment.
9. "Board-approved massage school" means a facility which meets minimum standards for training and curriculum as determined by rule of the board and which is licensed by the Department of Education pursuant to chapter 1005 or the equivalent licensing authority of another state or is within the public school system of this state.

480.034 Exemptions.

1. Nothing in this act shall modify or repeal any provision of chapters 458-464, inclusive, or of chapter 476, chapter 477, or chapter 486.
2. Athletic trainers employed by or on behalf of a professional athletic team performing or training within this state shall be exempt from the provisions of this act.
3. The state and its political subdivisions are exempt from the registration requirements of this act.
4. An exemption granted is effective to the extent that an exempted person's practice or profession overlaps with the practice of massage.

480.035 Board of Massage Therapy.

1. The Board of Massage Therapy is created within the department. The board shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.
2. Five members of the board shall be licensed massage therapists and shall have been engaged in the practice of massage for not less than 5 consecutive years prior to the date of appointment to the board. The Governor shall appoint each member for a term of 4 years. Two members of the board shall be laypersons. Each board member shall be a high school graduate or shall have received a graduate equivalency diploma. Each board member shall be a citizen of the United States and a resident of this state for not less than 5 years. The appointments will be subject to confirmation by the Senate.
3. The Governor may at any time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over after the expiration of her or his term until her or his successor has been duly appointed and qualified. No board member shall serve more than two terms, whether full or partial.
4. The board shall, in the month of January, elect from its number a chair and a vice chair.
5. The board shall hold such meetings during the year as it may determine to be necessary, one of which shall be the annual meeting. The chair of the board shall have the authority to call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.
6. Board members shall receive per diem and mileage as provided in s. 112.061 from the place of residence to the place of meeting and return.
7. The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

480.036 Accountability of board members.

Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations of such board member's office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, incompetency, or permanent inability to perform official duties.

480.039 Investigative services.

The department shall provide all investigative services required in carrying out the provisions of this act.

480.041 Massage therapists; qualifications; licensure; endorsement.

1. Any person is qualified for licensure as a massage therapist under this act who:
 - a. Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;
 - b. Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and
 - c. Has received a passing grade on an examination administered by the department.
2. Every person desiring to be examined for licensure as a massage therapist shall apply to the department in writing upon forms prepared and furnished by the department. Such applicants shall be subject to the provisions of s. 480.046(1). Applicants may take an examination administered by the department only upon meeting the requirements of this section as determined by the board.
3. An applicant must submit to background screening under s. 456.0135.
4. Upon an applicant's passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.
5. The board shall adopt rules:
 - a. Establishing a minimum training program for apprentices.
 - b. Providing for educational standards, examination, and certification for the practice of colonic irrigation, as defined in s. 480.033(6), by massage therapists.
 - c. Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.
6. Massage therapists who were issued a license before July 1, 2014, must submit to the background screening requirements of s. 456.0135 by January 31, 2015.
7. The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:
 - a. Section 787.01, relating to kidnapping.
 - b. Section 787.02, relating to false imprisonment.
 - c. Section 787.025, relating to luring or enticing a child.
 - d. Section 787.06, relating to human trafficking.
 - e. Section 787.07, relating to human smuggling.
 - f. Section 794.011, relating to sexual battery.
 - g. Section 794.08, relating to female genital mutilation.
 - h. Section 796.03, relating to procuring a person under the age of 18 for prostitution.
 - i. Section 796.035, relating to the selling or buying of minors into prostitution.
 - j. Section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
 - k. Section 796.05, relating to deriving support from the proceeds of prostitution.
 - l. Section 796.07(4)(c), relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
 - m. Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
 - n. Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
 - o. Section 827.071, relating to sexual performance by a child.
 - p. Section 847.0133, relating to the protection of minors.
 - q. Section 847.0135, relating to computer pornography.
 - r. Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
 - s. Section 847.0145, relating to the selling or buying of minors.

480.0415 License renewal.

The board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed 25 classroom hours per biennium. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

480.042 Examinations.

1. The board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure an applicant's competency. Professional testing services may be utilized to formulate the examinations.
2. The board shall ensure that examinations comply with state and federal equal employment opportunity guidelines.
3. The department shall, in accordance with rules established by the board, examine persons who file applications for licensure under this act in all matters pertaining to the practice of massage. A written examination shall be offered at least once yearly and at such other times as the department shall deem necessary.
4. The board shall adopt rules providing for reexamination of applicants who have failed the examination.
5. All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the State Surgeon General and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

480.043 Massage establishments; requisites; licensure; inspection.

1. No massage establishment shall be allowed to operate without a license granted by the department in accordance with rules adopted by the board.
2. A person who has an ownership interest in an establishment shall submit to the background screening requirements under s. [456.0135](#). However, if a corporation submits proof of having more than \$250,000 of business assets in this state, the department shall require the owner, officer, or individual directly involved in the management of the establishment to submit to the background screening requirements of s. [456.0135](#). The department may adopt rules regarding the type of proof that may be submitted by a corporation.
3. The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.
4. Any person, firm, or corporation desiring to operate a massage establishment in the state shall submit to the department an application, upon forms provided by the department, accompanied by any information requested by the department and an application fee.
5. Upon receiving the application, the department may cause an investigation to be made of the proposed massage establishment.
6. If, based upon the application and any necessary investigation, the department determines that the proposed establishment would fail to meet the standards adopted by the board under subsection (3), the department shall deny the application for license. Such denial shall be in writing and shall list the reasons for denial. Upon correction of any deficiencies, an applicant previously denied permission to operate a massage establishment may reapply for licensure.
7. If, based upon the application and any necessary investigation, the department determines that the proposed massage establishment may reasonably be expected to meet the standards adopted by the department under subsection (3), the department shall grant the license under such restrictions as it shall deem proper as soon as the original licensing fee is paid.

8. The department shall deny an application for a new or renewal license if a person with an ownership interest in the establishment or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

- a. Section 787.01, relating to kidnapping.
- b. Section 787.02, relating to false imprisonment.
- c. Section 787.025, relating to luring or enticing a child.
- d. Section 787.06, relating to human trafficking.
- e. Section 787.07, relating to human smuggling.
- f. Section 794.011, relating to sexual battery.
- g. Section 794.08, relating to female genital mutilation.
- h. Section 796.03, relating to procuring a person under the age of 18 for prostitution.
- i. Section 796.035, relating to selling or buying of minors into prostitution.
- j. Section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
- k. Section 796.05, relating to deriving support from the proceeds of prostitution.
- l. Section 796.07(4)(c), relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
- m. Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- n. Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- o. Section 827.071, relating to sexual performance by a child.
- p. Section 847.0133, relating to the protection of minors.
- q. Section 847.0135, relating to computer pornography.
- r. Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
- s. Section 847.0145, relating to the selling or buying of minors.

9. a. Once issued, no license for operation of a massage establishment may be transferred from one owner to another.

b. A license may be transferred from one location to another only after inspection and approval by the board and receipt of an application and inspection fee set by rule of the board, not to exceed \$125.

c. A license may be transferred from one business name to another after approval by the board and receipt of an application fee set by rule of the board, not to exceed \$25.

10. Renewal of license registration for massage establishments shall be accomplished pursuant to rules adopted by the board. The board is further authorized to adopt rules governing delinquent renewal of licenses and may impose penalty fees for delinquent renewal.

11. The board is authorized to adopt rules governing the periodic inspection of massage establishments licensed under this act.

12. A person with an ownership interest in or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of an establishment that was issued a license before July 1, 2014, shall submit to the background screening requirements of s. 456.0135 before January 31, 2015.

13. This section does not apply to a physician licensed under chapter 458, chapter 459, or chapter 460 who employs a licensed massage therapist to perform massage on the physician's patients at the physician's place of practice. This subsection does not restrict investigations by the department for violations of chapter 456 or this chapter.

480.044 Fees; disposition.

1. The board shall set fees according to the following schedule:

- a. Massage therapist application and examination fee: not to exceed \$250.

- b. Massage therapist initial licensure fee: not to exceed \$150.
 - c. Establishment application fee: not to exceed \$200.
 - d. Establishment licensure fee: not to exceed \$150.
 - e. Biennial establishment renewal fee: not to exceed \$150.
 - f. Biennial massage therapist licensure renewal fee: not to exceed \$200.
 - g. Massage therapist reexamination fee: not to exceed \$250.
 - h. Fee for apprentice: not to exceed \$100.
 - i. Colonics examination fee: not to exceed \$100.
 - j. Colonics reexamination fee: not to exceed \$100.
 - k. Application and reactivation for inactive status of a massage therapist license fee: not to exceed \$250.
 - l. Renewal fee for inactive status: not to exceed \$250.
2. The department shall impose a late fee not to exceed \$150 on a delinquent renewal of a massage establishment license.
 3. The board may establish by rule an application fee not to exceed \$100 for anyone seeking approval to provide continuing education courses and may provide by rule for a fee not to exceed \$50 for renewal of providership.
 4. The department is authorized to charge the cost of any original license or permit, as set forth in this chapter, for the issuance of any duplicate licenses or permits requested by any massage therapist or massage establishment.
 5. All moneys collected by the department from fees authorized by this act shall be paid into the Medical Quality Assurance Trust Fund in the department and shall be applied in accordance with the provisions of s. 456.025. The Legislature may appropriate any excess moneys from this fund to the General Revenue Fund.

480.046 Grounds for disciplinary action by the board.

1. The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):
 - a. Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.
 - b. Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.
 - c. Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.
 - d. False, deceptive, or misleading advertising.
 - e. Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.
 - f. Making deceptive, untrue, or fraudulent representations in the practice of massage.
 - g. Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.
 - h. Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.
 - i. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

- j. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.
- k. Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.
 - 1. Refusing to permit the department to inspect the business premises of the licensee during regular business hours.
 - m. Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.
 - n. Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.
 - o. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
- 2. The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).
- 3. The board shall have the power to revoke or suspend the license of a massage establishment licensed under this act, or to deny subsequent licensure of such an establishment, in either of the following cases:
 - a. Upon proof that a license has been obtained by fraud or misrepresentation.
 - b. Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.
- 4. Disciplinary proceedings shall be conducted pursuant to the provisions of chapter 120.

480.0465 Advertisement.

Each massage therapist or massage establishment licensed under the provisions of this act shall include the number of the license in any advertisement of massage services appearing in a newspaper, airwave transmission, telephone directory, or other advertising medium. Pending licensure of a new massage establishment pursuant to the provisions of s. 480.043(7), the license number of a licensed massage therapist who is an owner or principal officer of the establishment may be used in lieu of the license number for the establishment.

480.047 Penalties.

- 1. It is unlawful for any person to:
 - a. Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this chapter or unless otherwise specifically exempted from licensure under this chapter.
 - b. Operate any massage establishment unless it has been duly licensed as provided herein, except that nothing herein shall be construed to prevent the teaching of massage in this state at a board-approved massage school.
 - c. Permit an employed person to practice massage unless duly licensed as provided herein.
 - d. Present as his or her own the license of another.
 - e. Allow the use of his or her license by an unlicensed person.
 - f. Give false or forged evidence to the department in obtaining any license provided for herein.
 - g. Falsely impersonate any other license holder of like or different name.
 - h. Use or attempt to use a license that has been revoked.
 - i. Otherwise violate any of the provisions of this act.
- 2. Except as otherwise provided in this chapter, any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

480.0475 Massage establishments; prohibited practices.

- 1. A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:
 - a. Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare

property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;

b. In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an advanced registered nurse practitioner licensed under part I of chapter 464, or a dentist licensed under chapter 466; or

c. Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.

2. A person operating a massage establishment may not use or permit the establishment to be used as a principal domicile unless the establishment is zoned for residential use under a local ordinance.

3. A person violating the provisions of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent violation of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

480.0485 Sexual misconduct in the practice of massage therapy.

The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

480.049 Civil proceedings.

As cumulative to any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this act or the lawful rules or orders of the department.

480.052 Power of county or municipality to regulate massage.

A county or municipality, within its jurisdiction, may regulate persons and establishments licensed under this chapter. Such regulation shall not exceed the powers of the state under this act or be inconsistent with this act. This section shall not be construed to prohibit a county or municipality from enacting any regulation of persons or establishments not licensed pursuant to this act.

CHAPTER 456

HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

Chapter 456 of the Florida Law describes and governing rules of the Department of Health and the boards within it. Much of this information does not pertain to massage therapists specifically. With that in mind, please note that the following is not the complete chapter. We have summarized pertinent sections which apply to massage therapists and massage therapy establishments.

456.002 Applicability.

This chapter applies only to the regulation by the department of professions.

456.006 Contacting boards through department.

Each board under the jurisdiction of the department may be contacted through the headquarters of the department in the City of Tallahassee.

456.029 Education; substituting demonstration of competency for clock-hour requirements.

Any board, or the department when there is no board, that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be

substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.

456.032 Hepatitis B or HIV carriers.

1. The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle, counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.
2. Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(1)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

456.033 Requirement for instruction for certain licensees on HIV and AIDS.

The following requirements apply to each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; part I of chapter 464; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; or chapter 486:

1. Each person shall be required by the appropriate board to complete no later than upon first renewal a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.
2. Each person shall submit confirmation of having completed the course required under subsection (1), on a form as provided by the board, when submitting fees for first renewal.
3. The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.
4. Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.
5. Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 456.072(1)(e). In addition to discipline by the board, the licensee shall be required to complete the course.

456.038 Renewal and cancellation notices.

1. At least 90 days before the end of a licensure cycle, the department shall:
 - a. Forward a licensure renewal notification to an active or inactive status licensee at the licensee's last known address of record with the department.
 - b. Forward a notice of pending cancellation of licensure to a delinquent licensee at the licensee's last known address of record with the department.

2. Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department if there is no board.

456.054 Kickbacks prohibited.

1. As used in this section, the term "kickback" means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.
2. It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.
3. Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

FLORIDA STATUTES AND RULE CHAPTER 64B7

The following list and outline the pertinent sections of the Florida Statutes and Rules Chapter 64B7 which apply to the massage therapy profession. Please note that we have not listed the entire chapter, only the sections which directly apply to massage therapists and massage therapy establishments.

EXAMINATION

64B7-25.001 Examination Requirements.

1. The Department shall issue a license to a person who submits a completed application on form DH-MQA 1115, "Massage Therapist Licensure Application," (Rev. 6/14). The form and the attached instructions are incorporated herein by reference and may be obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/massage-app.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-04604>. To apply on-line, visit <https://ww2.doh.state.fl.us/DOHInitialApp/CreateAccount.aspx?Board=8014&Procde=1401>;
2. The Board approves the following examinations:
 - a. National Certification Board for Therapeutic Massage and Bodywork Examination;
 - b. National Certification Examination for Therapeutic Massage;
 - c. National Exam for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork;
 - d. The Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards;
 - e. The National Board for Colon Hydrotherapy Examination.
3. Any Board-approved examination may be offered in the Spanish language.
4. Prior to the practice of colon hydrotherapy, any licensed massage therapist, or apprentice shall be required to present certification to the Board of successful completion of examination by a Board approved massage school after completion of a supervised classroom course of study in colonic irrigation or in the case of a duly authorized apprenticeship training program, evidence of having completed 100 hours of colonic irrigation training, including a minimum of 45 hours of clinical practicum with a minimum of 20 treatments given.
5. Prior to the practice of colonic irrigation, any licensed massage therapist, or apprentice shall be required to successfully complete and pass the National Board for Colon Hydrotherapy Examination (NBCHT) which is approved by the Board.

64B7-25.004 Endorsements.

The Department shall issue a license by endorsement to a person who:

1. Pays to the Department the initial licensure fee set forth in subsection 64B7-27.008(2), F.A.C.; and
2. Submits a completed application on form DH-MQA 1115, "Massage Therapist Licensure Application with Instructions," (Rev. 9/12), adopted and incorporated by reference in Rule 64B7-25.001, F.A.C.; and
3. Is currently licensed and has practiced massage under the laws of another state, and was required, in order to be so licensed to meet standards of education or apprenticeship training substantially similar to, equivalent to, or more stringent than those required for licensure by Florida law and these rules; and
4. Demonstrates that his out-of-state license was issued upon the satisfactory completion of an examination comparable to the examination approved by the Board; and
5. Has no outstanding or unresolved complaints filed against him or her in the jurisdiction of licensure.
6. Completes a current curriculum course from a Board approved school covering the Florida Statutes and rules related to massage therapy.
7. Completes the HIV/AIDS course requirement in Rule 64B7-25.0012, F.A.C.
8. Completes a course relating to the prevention of medical errors as required by Section 456.013(7), F.S.

MESSAGE ESTABLISHMENTS

64B7-26.002 Licensure of Massage Establishments.

1. Each establishment, shall obtain a license from the Department as required by Section 480.043(1), F.S., by submitting a completed form DH-MQA 1263, "Massage Establishment Licensure Application" (Rev. 11/15), incorporated herein by reference, together with the fee set forth in subsection 64B7-27.100(2), F.A.C. The form and the attached instructions may be obtained from the Board office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov/applications/app-bus-original-mt.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-06532>.
2. The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a partnership, limited partnership or corporation, the application shall be submitted in the name of the business entity and shall be signed by an authorized representative.
3. An owner operating an establishment under a fictitious name as defined in Section 865.09, F.S., must provide such name to the Board on the application for licensure. Any advertisement by the establishment of massage therapy must include the fictitious name, and must comply with Rule 64B7-33.001, F.A.C.
4. The applicant shall submit proof confirming property damage and bodily injury liability insurance coverage for the proposed establishment. If the establishment is operated under a business name, the proof of insurance shall include both the name of the owner and the business name.

64B7-26.003 Massage Establishment Operations.

1. Facilities, Each establishment shall meet the following facility requirements:
 - a. Comply with all local building code requirements.
 - b. Provide for the use of clients a bathroom with at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, 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.
 - c. Maintain toilet facilities in a common area of the establishment. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such central facilities shall be within three hundred (300) feet of the massage establishment.
 - d. If equipped with a whirlpool bath, sauna, steam cabinet and/or steam room, maintain clean shower facilities on the premises.
2. Personnel. A licensed massage therapist must be on the premises of the establishment if a client is in a treatment room for the purpose of receiving massage therapy.
3. Safety and sanitary requirements. Each establishment shall:
 - a. Provide for safe and unobstructed human passage in the public areas of the premises; provide for removal of

garbage and refuse; and provide for safe storage or removal of flammable materials.

b. Maintain a fire extinguisher in good working condition on the premises. As used herein “good working condition” means meeting the standards for approval by the State Fire Marshal. Such standards are presently contained in Chapter 69A-21, F.A.C.

c. Exterminate all vermin, insects, termites, and rodents on the premises.

d. Maintain all equipment used to perform massage services on the premises in a safe and sanitary condition, including the regular application of cleansers and bactericidal agents to the massage table. Unless clean sheets, towels, or other coverings are used to cover the massage table for each client, “regular application,” as used herein, means after the massage of each client. If clean coverings are used for each client, then “regular application” shall mean at least one time a day and also whenever oils or other substances visibly accumulate on the massage table surface.

e. Maintain a sufficient supply of clean drapes for the purpose of draping each client while the client is being massaged, and launder before reuse all materials furnished for the personal use of the client, such as drapes, towels and linens. As used herein “drapes” means towels, gowns, or sheets.

f. Maintain lavatories for hand cleansing and/or a chemical germicidal designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.

g. Maintain all bathroom and shower facilities and fixtures in good repair, well-lighted and ventilated.

4. Financial responsibility and insurance coverage. Each establishment shall maintain property damage and bodily injury liability insurance coverage. The original or a copy of such policy shall be available on the premises of the establishment.

64B7-26.005 Periodic Inspections.

The Department shall make periodic inspections of all massage establishments licensed in this state no less than once each year. Such inspection shall include, but not be limited to, whether the establishment is in compliance with Rule 64B7-26.003, F.A.C., governing the establishment’s operation facilities, personnel, safety, sanitary requirements, and a review of existing insurance coverage.

64B7-26.007 Transfer of Massage Establishment License.

1. When there is no change of ownership or location, the owner may change the business name of the establishment. The owner shall apply for a change of business name by submitting a completed Form DH-MQA 1264 “Massage Establishment Change of Location/Name Application” (Rev. 6/14), incorporated herein by reference, accompanied by the application fee provided in paragraph 64B7-27.100(2)(d), F.A.C. The form and the attached instructions may be obtained from the Board Office at 4052 Bald Cypress Way, Bin C-06, Tallahassee, Florida 32399 or from the website located at <http://floridasmassagetherapy.gov> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-04618>. When a massage establishment business name is changed, without a change in ownership or location, a new establishment inspection is not required.

2. When there is no change of ownership, the owner of a massage establishment may transfer the license from one location to another. The owner shall apply for a change of location by submitting a completed Form DH-MQA 1264 “Massage Establishment Change of Location/Name Application” (Rev. 6/14), accompanied by the application fee provided in paragraph 64B7-27.100(2)(e), F.A.C. A massage establishment license may not be transferred from one location to another until after inspection by the department.

64B7-26.010 Sexual Activity Prohibited.

1. Sexual activity by any person or persons in any massage establishment is absolutely prohibited.

2. No massage establishment owner shall engage in or permit any person or persons to engage in sexual activity in such owner’s massage establishment or use such establishment to make arrangements to engage in sexual activity in any other place.

3. No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client or to make arrangements to engage in sexual activity with any client.

4. As used in this rule, “sexual activity” means any direct or indirect physical contact by any person or between

persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse. For purposes of this subsection, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred. Nothing herein shall be interpreted to prohibit a licensed massage therapist, duly qualified under Rule 64B7-31.001, F.A.C, from practicing colonic irrigation.

BIENNIAL LICENSE RENEWAL

64B7-28.002 Biennial Renewal of Massage Establishment License.

All license renewals for massage establishments shall meet the requirements as set forth in Chapter 480, F.S., and these rules. All massage establishments shall renew their licenses on or before August 31 of each biennial year, according to the fee schedule as set forth in Rule 64B7-27.100, F.A.C., and the insurance coverage requirements of subsection 64B7-26.002(4), F.A.C. If, however, the massage establishment does not renew its license timely, the license shall be considered delinquent. If a massage establishment is operating with a delinquent license, said establishment is in violation of Section 480.047(1)(b), F.S., and is subject to the criminal penalties as provided for in Section 480.047(2), F.S. In order to renew a delinquent license, the massage establishment shall pay the late fee for delinquent renewal in the amount of seventy-five dollars (\$75.00) as set forth in Section 480.044(2), F.S., and the biennial renewal fee as specified in Rule 64B7-27.100, F.A.C.

64B7-28.0042 Requirements for Reactivation of an Inactive License.

An inactive license shall be reactivated upon demonstration that the licensee has paid the reactivation fee set forth in paragraph 64B7-27.100(1)(f), F.A.C., and has complied with the following requirements:

1. As a condition to the reactivation of an inactive license, a massage therapist must submit proof of having completed the appropriate continuing education requirements as set forth in Rule 64B7-28.009, F.A.C.
2. However, any licensee whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for two out of the previous four years in another jurisdiction shall be required to appear before the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. At the time of such appearance, the licensee must:
 - a. Show compliance with subsection (1) above;
 - b. Account for any activities related to the practice of massage therapy in this or any other jurisdiction during the period that the license was inactive and establish an absence of malpractice or disciplinary actions pending in any jurisdiction;
 - c. Prove compliance with Section 456.065, F.S., and subsection 64B7-28.001(2), F.A.C.
3. The Department shall not reactivate the license of any massage therapist who has:
 - a. Committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a licensee pursuant to Section 480.046, F.S.
 - b. Failed to comply with the provisions of Section 456.036, F.S., and subsections 64B7-28.001(2) and (3), F.A.C.
4. Any licensed massage therapist whose license has been in an inactive or retired status for more than two consecutive biennial licensure cycles shall be required to successfully complete and pass the NBCHT, prior to resuming the practice of colonic irrigation.
5. Any applicant for massage therapist licensure or licensed massage therapist, who in conjunction with previous massage therapist licensure was certified to practice colonic irrigation, shall be required to successfully complete and pass the NBCHT prior to practicing colon hydrotherapy.

64B7-28.0043 Delinquent Status License.

1. The failure of any license holder to either renew the license or elect inactive status before the license expires shall cause the license to become delinquent.
2. The delinquent status licensee must affirmatively apply for active or inactive status during the licensure cycle in which the license becomes delinquent. The failure by the delinquent status licensee to cause the license to be

renewed or made inactive before the expiration of the licensure cycle in which the license became delinquent shall render the license null and void without further action by the Board or the Department.

3. The delinquent status licensee who applies for license renewal or inactive status shall:

a. Apply to the department for either license renewal as required by Section 480.0415, F.S., or inactive status as required by Section 456.036, F.S.

b. Pay to the Board either the license renewal fee as set forth in Rule 64B7-27.006, F.A.C., or the inactive status fee as set forth in Rule 64B7-27.010, F.A.C.; the delinquency fee as set forth in Rule 64B7-27.015, F.A.C., and the change of status fee as set forth in Rule 64B7-27.016, F.A.C., if applicable; and

c. If renewal is elected, demonstrate compliance with the continuing education requirements found in Rule 64B7-28.009, F.A.C.

64B7-28.0044 Retired Status and Reactivation of Retired Status License.

1. A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee set forth in Rule 64B7-27.100, F.A.C. If the licensee chooses to place the license in retired status at any time other than at the time of license renewal the licensee shall pay a change of status processing fee of \$50.00 and the retired status fee.

2. A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:

a. Paying the reactivation fee described at Rule 64B7-27.100, F.A.C.;

b. Demonstrating satisfaction of the continuing education requirements that would have been imposed on an active status licensee under this title for each licensure biennial period in which the licensee was on retired status.

64B7-28.007 Exemption of Spouses of Members of Armed Forces From Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces and was caused to be absent from Florida for a period of at least six consecutive months because of the spouse's duties with the armed forces and who at the time the absence became necessary was in good standing with the Board of Massage and entitled to practice massage in Florida shall be exempt from all licensure renewal provisions under these rules. The licensee must show satisfactory proof of the absence and the spouse's military status.

64B7-28.008 Display of Licenses.

1. Each licensed practitioner shall conspicuously display a current license issued by the Department, or photo copy thereof, at each location at which he or she practices.

a. Effective on August 1, 2012, for each initial license or duplicate license issued the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

b. Effective on September 1, 2013, the licensee must attach to the displayed license a 2 by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

2. Each apprentice shall conspicuously display his or her apprentice certificate issued by the Board office, in the establishment for which it has been issued. Effective on August 1, 2012, the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

3. The owner of each massage establishment shall conspicuously display a current establishment license issued by the Department on the premises.

64B7-28.009 Continuing Education.

1. During each biennium, each licensee shall complete a minimum of one classroom hour of continuing education from a Board-approved provider for each month the license is active, up to a maximum requirement of 24 months for the renewal period.

2. For the purposes of this chapter a "classroom hour" shall be defined as no less than 50 minutes of any one clock hour during which the student participates in a learning activity of the continuing education provider.

3. Continuing education for licensees who are renewing their license for the first time shall include the following:

a. Two classroom hours of instruction on prevention of medical errors that meet the requirements of Section 456.013(7), F.S.

b. The remaining classroom hours may be satisfied by completing instruction in any of the subject matter listed in paragraphs 64B7-28.009(4)(a)-(d), F.A.C., of this rule.

4. The continuing education requirement for all other licensees, not renewing for the first time, shall include the following:

a. At least twelve (12) of the classroom hours of instruction must be relevant to and focus on massage therapy techniques, skills, and protocols as defined in Section 480.033(3), F.S. The instruction must be provided in the presence of the Board approved instructor(s) and must include hands-on participation by the licensee and/or a demonstration by the instructor(s).

b. Two hours of instruction in professional ethics. This requirement may be satisfied by attending two continuous hours of a meeting of the Board, provided the licensee does not have a disciplinary or licensure matter on the agenda and the licensee signs in and out of the meeting to demonstrate compliance.

c. Two hours of instruction on Chapters 456 and 480, F.S., and the rules promulgated by the Board. This requirement may be satisfied by attending two continuous hours of a meeting of the board, provided the licensee does not have a disciplinary or licensure matter on the agenda and the licensee signs in and out of the meeting to demonstrate compliance.

d. Two hours of instruction on prevention of medical errors that meet the requirements of Section 456.013(7), F.S.

64B7-28.0095 Continuing Education for Pro Bono Services.

1. Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that include instruction, Rule 64B7-28.0095, F.A.C., Continuing Education for Pro Bono Services.

2. Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that include instruction, demonstration and/or hands on practice in Rule 64B7-28.009, F.A.C., may be awarded, on an hour per hour basis, for the performance of pro bono services to the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigence shall be that recognized by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services.

3. In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval on form DH-MQA 1243 "Request for Approval of Continuing Education for Pro Bono Services For the Biennial Renewal period of _____ (rev. 04/13)" <http://www.flrules.org/Gateway/reference.asp?No=Ref-03420>, hereby adopted and incorporated by reference, and can be obtained from the Department of Health's website at <http://www.doh.state.fl.us/MQA/massage>, which must include the following information:

a. The type, nature and extent of services to be rendered;

b. The location where the services will be rendered;

c. The number of patients expected to be served; and

d. A statement indicating that the patients to be served are indigent, underserved or in an area of critical need.

4. A statement of completion of preapproved services performed must be submitted on form DH-MQA 1244 (rev. 4/13) "Statement of Performance of Continuing Education Credits for Preapproved Pro Bono Services for the Biennial Renewal Period of _____ Pursuant to Rule 64B7-28.0095, F.A.C.," incorporated herein by reference, and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03421>. The form can be obtained from the Board of Massage Therapy, ATTN: Pro Bono Services, 4052 Bald Cypress Way #C-06, Tallahassee, FL 32399-3256 or from the following website: <http://www.doh.state.fl.us/MQA/massage>.

5. Approval for pro bono services is only granted for the biennium for which it is sought. The licensee must request approval for each biennium they wish to receive credit for pro bono services.

DISCIPLINE

64B7-30.001 Misconduct and Negligence in the Practice of Massage Therapy.

The following acts shall constitute the failure to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances:

1. Administering treatment in a negligent manner.
2. Violating the confidentiality of information or knowledge concerning a client.
3. Offering massage therapy at a sports event, convention or trade show without obtaining the written approval of the owner or property manager of the site at which the sports event, convention or trade show is held.
4. Failure to explain expected draping techniques to a client. As used in this rule, draping means towels, gowns, sheets or clothing.
5. Failure to appropriately drape a client. Appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients, unless the client gives specific informed consent to be undraped.

647B-30.002 Disciplinary Guidelines.

1. When the Board finds that an applicant, apprentice, or licensee whom it regulates under Chapter 480, F.S., has committed any of the acts set forth in Sections 480.041, 480.043, 480.0485, 480.046, 480.047 and 456.072, F.S., and/or Title 64B7, F.A.C., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines after consideration of the aggravating and mitigating factors set forth in subsection (4) of this rule. Discipline may include any of the following: letter of concern, reprimand, license with conditions, probation, suspension, revocation and/or fines.

2. If the offense is for fraud or making a false or fraudulent representation, the recommended penalties are:

- a. Licensee:
 1. First offense: \$10,000 fine;
 2. Second offense: \$10,000 fine and suspension;
 3. Subsequent offense: \$10,000 fine and revocation.
- b. Applicant:
 1. First offense: \$10,000 fine and a denial of licensure;
 2. Subsequent offense: \$10,000 fine, denial of licensure, and prohibition on reapplication for 2 to 5 yrs.
- c. Massage Establishment:
 1. \$10,000, revocation of the license, and prohibition of reapplication by the holder of the license for a period of 2 yrs.
 2. In addition, if owned by a Licensed Massage Therapist:
 - a. First offense: \$10,000 fine and suspension of owner’s massage therapy license.
 - b. Subsequent offense: \$10,000 fine and revocation of the owner’s massage therapy license.

3. Disciplinary Guidelines

PENALTY RANGE			
VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(a) Section 480.046(1)(a) or 456.072(1)(h), F.S. Bribery	\$1000 fine and suspension or denial of licensure	Revocation	
Fraudulent misrepresentation	\$10,000 fine	\$10,000 fine and suspension	\$10,000 fine and revocation
Licensed through error of Department or Board	Revocation		
(b) Section 480.046(1)(b) or	Discipline consistent with		

456.072(1)(f), F.S.	penalty or actions imposed in other jurisdiction or denial of licensure		
(c) Section 480.046(1)(c) or 456.072(1)(c), F.S. Misdemeanors	\$250 fine	\$500 fine and probation	\$500 fine and suspension
Felonies	\$500 fine and probation	\$500 fine and suspension	\$1,000 fine and suspension
Crimes relating to assault, battery, abuse or which otherwise cause bodily harm, prostitution or solicitation for prostitution	\$1,000 fine and revocation		
Crimes relating to fraud	\$10,000 fine	\$10,000 fine and suspension	\$10,000 fine and revocation
(d) Section 480.046(1)(d), F.S.	\$500 fine and reprimand	\$750 fine and probation	\$1,000 fine and suspension
(e) Section 480.046(1)(e) or 456.072(1)(j), F.S.	\$1,000 fine and suspension	\$1,000 fine and suspension for a minimum of 2 years	Revocation
(f) Section 480.046(1)(f) or 456.072(1)(a) or (m), F.S.	\$1,000 fine and reprimand	\$1,000 fine and probation	Revocation
Fraudulent misrepresentations	\$10,000 fine	\$10,000 fine and suspension	\$10,000 fine and revocation
(g) Section 480.046(1)(g) or 456.072(1)(z), F.S.	Suspension until PRN evaluation and contract if recommended, suspension stayed while compliant	Suspension until compliant	Revocation
(h) Section 480.046(1)(h), F.S.	\$1,000 fine and probation	\$1,000 fine and suspension	Revocation
(i) Section 480.046(1)(i) or 456.072(1)(o), F.S.	\$1,000 fine and probation	\$1,000 fine and suspension	Revocation
(j) Section 480.046(1)(j) or 456.072(1)(p), F.S.	\$500 fine and probation	\$1,000 fine and suspension	Revocation
(k) Section 480.046(1)(k) or 456.072(1)(q), F.S.	Suspension until compliant	Revocation	
(l) Section 480.046(1)(l), F.S.	\$500 fine and suspension	\$1,000 fine and suspension	Revocation
(m) Section 480.046(1)(m), F.S.	\$250 fine and reprimand	\$1,000 fine and suspension	Revocation

(n) Section 480.046(1)(n), F.S. 1. Establishment license delinquent	\$100 fine for the first month and \$50 for each succeeding month or part thereof and reprimand		
2. Establishment license suspended – site owned by massage therapist	Suspension of owner’s massage therapy license	Revocation of licensed owner’s massage therapy license	
(o) Section 480.046(1)(o) or 456.072(1)(b) or (dd), F.S.	Unless an offense is specifically set forth in this subsection \$250 fine	\$250 fine and probation	
1. Section 480.0465, F.S.	Reprimand, \$500 fine	Revocation	
2. Section 480.0485, F.S.	\$2,500 fine and revocation		
3. Section 456.036(1), F.S. Delinquent license	\$100 fine for first month and \$50 for each succeeding first month or part thereof and reprimand		
4. Section 456.036(1), F.S. Suspended or inactive license	Revocation		
5. Section 480.047(1)(b), F.S. Violator’s license Delinquent	\$100 fine for first month and \$50 for each succeeding month or part thereof and reprimand		
6. Section 480.047(1)(b), F.S. Violator’s license Suspended or inactive	Revocation		
7. Section 480.047(1)(c), F.S.	\$1,000 fine and suspension	\$1,000 fine and suspension for minimum of 2 years	Revocation
8. Section 480.047(1)(d), F.S. Licensee Applicant	\$1,000 fine Denial of licensure	Revocation Denial of licensure and prohibition on reapplication for 2-5 years	
9. Section 480.047(1)(e), F.S.	Revocation		
10. Section 480.047(1)(f), F.S. Licensee Applicant	\$1,000 fine and probation Denial of licensure	\$1,000 fine and suspension Denial of licensure and prohibition on reapplication for 2-5 years	Revocation
11. Section 480.047(1)(g), F.S.	\$1,000 fine and probation	\$1,000 fine and	

Licensee		revocation	
Applicant	Denial of licensure	Denial of licensure and prohibition on reapplication for 2-5 years	
12. Failure to respond to continuing education audit	\$500 fine and suspension	\$500 fine and revocation	
13. Any violation of Rule 64B7-26.010, F.A.C.	\$2,500 fine and revocation		
(p) Section 456.072(1)(e), F.S.	Letter of Concern	Reprimand and \$250	
(q) Section 456.072(1)(g), F.S.	\$500 fine and suspension	\$1,000 fine and revocation	
(r) Section 456.072(1)(i), F.S.	\$500 fine and reprimand	\$1,000 fine and suspension	
(s) Section 456.072(1)(k), F.S.	\$250 fine	\$500 fine	\$1,000 fine
(t) Section 456.072(1)(l), F.S.	\$500 fine and probation	\$2,000 fine and revocation	
(u) Section 456.072(1)(n), F.S.	\$500 fine and probation	\$1,000 fine and revocation	
(v) Section 456.072(1)(r), F.S.	\$500 fine and probation	\$1,000 fine and revocation	
(w) Section 456.072(1)(t), F.S.	Letter of concern	Reprimand and \$250 fine	
(x) Section 456.072(1)(v), F.S.	\$2,500 fine and revocation		
(y) Section 456.072(1)(x), F.S.	Reprimand, \$250 fine and continuing education	Reprimand, \$500 fine and continuing education	Revocation
(z) Section 456.072(1)(y), F.S.	\$500 fine and probation	\$500 fine and suspension	\$500 fine and revocation
(aa) Section 456.072(1)(aa), F.S.	Suspension until PRN evaluation, contract if recommended under stayed suspension	Suspension until appearance to demonstrate safety to practice with PRN facilitated evaluation	Revocation
(bb) Section 456.072(1)(bb), F.S.	Reprimand and \$500 fine	\$1,000 fine to revocation	
(cc) Section 456.072(1)(cc), F.S.	Reprimand and \$1,000 fine	Revocation	
(dd) Section 456.072(1)(ff), F.S.	Reprimand and \$1,000 fine	Revocation	
(ee) Section 456.072(1)(hh), F.S.	Suspension until compliant up to suspension until compliant with program followed by up to five (5) years probation with	Suspension until compliant with program and up to five (5) years probation with conditions, or revocation, and up to	

	conditions	\$2,000 fine	
(ff) Section 456.072(1)(ii), F.S.	Reprimand and \$5,000 fine to revocation		
(gg) Section 456.072(1)(jj), F.S.	Reprimand and \$1,000 fine to revocation		
(hh) Section 456.072(1)(kk), F.S.	Reprimand, \$1,000 fine to revocation		
(ii) Section 456.072(1)(ll), F.S.	Reprimand, and \$10,000 fine to revocation		
(jj) Section 456.072(1)(nn), F.S.	Letter of concern		
(kk) Section 480.0535(2)(b), F.S.	\$500 fine to revocation		
(ll) Section 480.041(6), F.S.	Suspension until compliant up to Suspension until compliant and \$1,000 fine	Revocation	
(mm) Section 480.043(12), F.S.	Suspension until compliant up to Suspension until compliant and \$1,000 fine	Revocation	

4. Based upon consideration of aggravating or mitigating factors, present in an individual case, the Board may deviate from the penalties for the violations charged. The Board shall consider as aggravating or mitigating factors the following:

- a. The danger to the public;
- b. The length of time since the violation;
- c. The number of times the licensee has been previously disciplined by the Board;
- d. The length of time licensee has practiced;
- e. The actual damage, physical or otherwise, caused by the violation;
- f. The deterrent effect of the penalty imposed;
- g. The effect of the penalty upon the licensee's livelihood;
- h. Any effort of rehabilitation by the licensee;
- i. The actual knowledge of the licensee pertaining to the violation;
- j. Attempts by licensee to correct or stop violation or refusal by licensee to correct or stop violation;
- k. Related violations against licensee in another state including findings of guilt or innocence, penalties imposed and penalties served;
 - l. Actual negligence of the licensee pertaining to any violation;
 - m. Penalties imposed for related offenses under subsections (1) and (2) above;
 - n. Any other mitigating or aggravating circumstances.

5. When the Board finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it shall enter an order imposing one or more of the following penalties:

- a. Refusal to certify, or to certify with restrictions, an application for a license.
- b. Suspension or permanent revocation of a license.
- c. Restriction of practice.
- d. Imposition of an administrative fine not to exceed \$10,000 for each Count or separate offense.
- e. Issuance of a reprimand.

f. Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify. Those conditions shall include requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

g. Corrective action.

6. The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.

7. The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to pursue or recommend the Department pursue collateral, civil or criminal actions when appropriate.

8. In any proceeding where the Board is authorized to take disciplinary action, the Board will also impose costs of investigation and prosecution as authorized by Section 456.072(4), F.S.

9. Whenever the Board, in accordance with this rule, imposes a monetary fine against a respondent in an Administrative Complaint, it shall also impose a suspension of the respondent's license until the fine is paid. However, to enable the respondent to pay the monies fine, the Board shall stay the imposition of the suspension for the same time period as specified, in accordance with Rule 64B7-24.016, F.A.C., for payment of the monies fine. If the fine is paid within the specified time, then the order of suspension shall not take effect; if the fine is paid after the order of suspension has taken effect, then the stay shall be lifted.

64B7-30.004 Citations.

1. Definitions. As used in this rule:

a. "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a subject in the manner provided in Section 456.077, F.S., for the purpose of assessing a penalty in an amount established by this rule;

b. "Subject" means the licensee, applicant, person, partnership, corporation, or other entity alleged to have committed a violation designated in this rule.

2. In lieu of the disciplinary procedures contained in Section 456.072, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

3. The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

a. Refusing to allow the department to inspect the business premises of the licensee during regular business hours as required by Section 480.046(1)(l), F.S., shall result in a penalty of \$500.00.

b. Failing to display a license or certificate as required by Rule 64B7-28.008, F.A.C., shall result in a penalty of \$250.00.

c. Failing to keep the equipment and premises of a massage establishment in a clean and sanitary condition as required by Section 480.046(1)(m), F.S., shall result in a penalty of \$250.00.

d. Failing to maintain property damage and bodily injury liability insurance coverage as required by subsection 64B7-26.003(4), F.A.C., shall result in a penalty of \$250.00.

e. Failure to include the license number of either the massage therapist or the massage establishment in advertisements as required by Section 480.0465, F.S., shall result in a penalty of \$250.00.

f. Practicing with a delinquent license in violation of Section 480.047(1)(a), F.S., when the license, has become delinquent automatically for failure to renew, so long as the license is reactivated within 30 days of becoming delinquent, shall result in a penalty of \$250.00. Practice for more than 30 days after a license has become delinquent shall not be a citation violation.

g. Violations of Rule 64B7-28.009, F.A.C., by licensees provided that the violation did not involve bribery or fraudulent misrepresentation, shall result in a penalty of \$25.00 per hour for each hour of deficit of the continuing education hour requirement, and completion of the required continuing education.

h. Failure of a massage therapist to notify the Board of a change of address as required by Section 456.035(1),

F.S., shall result in a penalty of \$250.00.

i. False, misleading or deceptive advertising by advertising massage therapy services under a name under which a license has not been issued in violation of Section 480.046(1)(d), F.S., shall result in a penalty of \$250.00.

j. Violating Section 456.072(1)(h), F.S., by tendering a check that is dishonored by the institution upon which it is drawn shall result in a penalty of \$250.00.

k. Failing to identify to a patient verbally or in writing, which may include wearing of a name tag, that a licensee is practicing as a licensed massage therapist, in violation of Section 456.072(1)(t), F.S., shall result in a penalty of \$100.00.

1. Failure to disclose conviction of or entry of a plea to a criminal offense on initial application for licensure for any licensee whose initial application was submitted prior to July 1, 2014, shall result in a fine of \$500.00 for each conviction or plea not disclosed on the application.

4. In addition to the fines imposed herein, the costs of investigation and prosecution for each offense shall be assessed in the citation.

5. All fines and costs imposed in a citation shall be paid within 90 days of the date the citation is filed.

64B7-30.006 Notice of Noncompliance.

Pursuant to Sections 120.695 and 456.073(3), F.S., the Board designates the following as minor violations for which a notice of noncompliance may be issued for the first violation thereof:

1. Failure to provide written notice of licensee's current mailing address and place of practice in violation of Rule 64B7-28.015, F.A.C.

2. Failure to obtain continuing education in HIV/AIDS in violation of Section 456.034, F.S.

3. Failure to have proof of insurance available at an establishment as required by subsection 64B7-26.003(4), F.A.C.

4. Failure to include license number or numbers in any advertisement as required by Section 480.0465, F.S.

64B7-30.008 Probationary Conditions and Definitions.

1. Indirect Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under indirect supervision, the term indirect supervision does not require that the monitoring practitioner practice on the same premises as the respondent; however, the monitor shall practice within a reasonable geographic proximity to the respondent, which shall be within 20 miles unless otherwise authorized by the Board, and shall be readily available for consultation.

2. Direct Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under direct supervision, the term direct supervision requires that the respondent practice only if the supervisor is on the premises.

3. Provisions governing all supervised or monitored practitioners.

a. The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.

b. The respondent shall not practice without a supervisor/monitor unless otherwise ordered. The respondent shall appear at the next meeting of the Board with his proposed supervisor/monitor unless otherwise ordered.

c. After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, the respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Board shall approve a temporary supervisor/monitor who shall serve in that capacity until the next meeting of the Board, at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

d. The supervisor/monitor must be a licensee under Chapter 480, F.S., in good standing and without restriction or limitation on his license. In addition, the Board shall reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor

must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Board will also reject any proposed supervisor/monitor whom the Board finds has violated the Board's rules or Chapter 456 or 480, F.S.

4. For purpose of determining the dates when reports are due, the date the Final Order is filed shall constitute the beginning of the quarter.

a. All quarterly reports shall be provided to the Board office no later than three months from the filing date of the Final Order.

b. All semiannual reports shall be provided to the Board office no later than six months from the filing date of the Final Order.

c. All annual reports shall be provided to the Board office no later than twelve months from the filing date of the Final Order.

ADVERTISEMENT

64B7-33.001 Advertisement.

1. Each massage therapist or massage establishment licensed under the provisions of this act shall include the number of the license in any advertisement of massage services.

2. Any advertisement of massage services in any advertising medium as defined herein shall include the license number of each licensed massage therapist and each licensed massage establishment whose name appears in the advertisement.

3. For purposes of this rule, "advertising medium" means: any newspaper, airwave or computer transmission, telephone directory listing other than an in-column listing consisting only of a name, address, and telephone number, business card, handbill, flyer, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

4. No provision herein shall be construed to prohibit the use of a properly registered corporate or fictitious name, if registered according to Florida Law.

RESOURCES:

<http://floridasmassagetherapy.gov/resources/>

Florida Laws and Rules Examination

Chapter 480

Massage Practice Act

1. Why is the practice of massage therapy governed by the State of Florida?
 - a. To protect the public from unqualified practitioners
 - b. To ensure that massage therapists have knowledge of anatomy and physiology
 - c. To ensure that massage therapists have an understanding of the functions of the body
 - d. All of the above

2. Which of the following must a person possess in order to qualify for a massage therapy license?
 - a. A passing grade on an examination administered by the department
 - b. A bachelor's degree in a related health field
 - c. Age of at least 16 years
 - d. A license in a health field related to massage

3. How many continuing education hours must a licensed massage therapist complete for license renewal?
 - a. Not to exceed 15
 - b. Not to exceed 20
 - c. Not to exceed 25
 - d. Not to exceed 28

4. Why is an examination given by the department for initial licensure?
 - a. In order to ensure that the applicant has passed the NCBTMB examination
 - b. In order to adequately measure an applicant's competency
 - c. In order to ensure that the applicant has completed a bachelor's degree
 - d. In order to adequately measure the applicant's test taking skills

5. A massage therapy establishment license may be transferred from one location to another only after inspection and approval by the board and receipt of an application and inspection fee set by rule of the board, not to exceed _____.
 - a. \$125
 - b. \$100
 - c. \$50
 - d. \$25

6. Which of the following would be grounds for disciplinary action by the board?
 - a. Having a current license to practice massage therapy in good standing
 - b. False, deceptive, or misleading advertising
 - c. Practicing within the scope permitted by law
 - d. Practicing massage at an on-site location which is a duly licensed massage establishment

7. What is the penalty for violating the laws and provisions of section 480.047?
 - a. A felony charge
 - b. A misdemeanor in the third degree
 - c. A misdemeanor in the first degree
 - d. A citation

Chapter 456

General Provisions

8. Which of the following is a definition of the term “kickback”, which is prohibited by Chapter 456 section 456.054?
- Receiving a tax deductible donation for providing volunteer services for another provider
 - Receiving payment by or on behalf of a provider to a person as incentive for a patient referral
 - Working for an hourly wage for another provider of healthcare services
 - Providing massages as an independent contractor for an employer

Florida Statutes and Rule

Chapter 64B7

9. The board approves all of the following examinations for massage therapy EXCEPT:
- National Aromatherapy Association Examination
 - National Certification Board for Therapeutic Massage and Bodywork Examination
 - National Certification Examination for Therapeutic Massage
 - The Massage and Bodywork Licensing Exam administered by the Federation of State Massage Therapy Boards
10. Which of the following is required for obtaining a license by endorsement?
- Current license and practicing under the laws of another state
 - Incomplete application
 - Has outstanding or unresolved complaints
 - Non-completion of the HIV/AIDS course requirement
11. In order to obtain a massage establishment license, an applicant must have:
- Proof of property damage and bodily injury liability insurance
 - Proof of additional education from an approved provider
 - Proof of flood and fire insurance
 - Proof of durable power of attorney
12. How often could you expect your massage establishment to be inspected for compliance with Rule 64B7-26.005?
- Twice a year
 - No less than once each year
 - One time every two years
 - No less than once every renewal period
13. In which of the following situations would it be appropriate for you to apply to the board to transfer your massage establishment license?
- You sell your business and give your license to the new owners
 - You hire new employees but the business name or location does not change
 - When there is no change in ownership, but the location changes
 - Your massage license is revoked due to non-compliance
14. All of the following are considered sexual acts and prohibited by the board EXCEPT:
- Any direct or indirect physical contact by a person or between persons that is intended to erotically stimulate either person
 - The use of a massage tool on the shoulder to release the trapezius muscle
 - The use of any device or object intended to erotically stimulate either person
 - Intercourse, fellatio, cunnilingus, masturbation, or anal intercourse

15. Continuing education requirements for licensees not renewing for the first time, shall include:
 - a. 2 hours of instruction in professional ethics
 - b. 2 hours of instruction on chapters 456 and 480, F. S., and the rules promulgated by the board
 - c. 2 hours of instruction on prevention of medical errors
 - d. All of the above

16. Which of the following is considered misconduct and negligence in the practice of massage therapy according to 64B7-30.001?
 - a. Administering treatment in a negligent manner
 - b. Violating the confidentiality of information or knowledge concerning a client
 - c. Failure to appropriately drape a client
 - d. All of the above

17. When the board finds an applicant, apprentice, or licensee in violation of current massage laws, discipline may include all of the following EXCEPT:
 - a. Letter of concern
 - b. License with conditions
 - c. License set to inactive status
 - d. Fines

18. What would the expected penalty be for a first offense violation of section 480.046 (1)(d), F. S.?
 - a. \$1000 fine and suspension
 - b. \$500 fine and suspension
 - c. \$250 fine and reprimand
 - d. \$500 fine and reprimand

19. You may be issued a citation for which of the following activities?
 - a. Allowing the department to inspect the business premises of the licensee during regular business hours
 - b. Including the license number of either the massage therapist or the massage establishment in advertisements
 - c. Failure of a massage therapist to notify the board of a change of address
 - d. Proper, ethical advertising

20. Massage therapists and/or massage establishments must include the number of the license in which of the following advertisements?
 - a. Newspaper
 - b. Business cards
 - c. Flyers
 - d. All of the above

This completes the Florida Laws and Rules Examination.