



## **Florida Laws and Rules Ten (10) Hour CEU Course**

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Take the Test

In the not too distant past, I served as chair of the Florida Board of Acupuncture's Probable Cause Panel which judged whether cases brought before the Board had sufficient merit to warrant prosecution. This Board functions much the same way as the Florida Board of Massage. What struck me most about those acupuncture licensees whose cases were brought before us was their lack of knowledge about Chapters 456, 457, and 64B1, Florida Administrative Code, which governed their conduct as Licensed Acupuncturists and also spelled out their rights. I suspect that the same is true for those massage therapists licensed under Chapter 480 and regulated under Chapter 64B7.

For sure, some of the accused probably knew that they were clearly in violation of the law and broke the law anyways. I'm not concerned about that group, and this course won't be of much help to them.

But others were only in violation because they had misunderstood or had not been aware of some aspect of the laws and rules. Then there was another surprisingly large group of accused who, perhaps out of an undue fear of the prosecutorial powers of the State, volunteered to plead guilty to complaints, even though they had done nothing wrong! If they had known what their rights were under the law, they should have instead asked for the Board to absolve them of any wrongdoing. Fortunately, the probable cause process provides for professional licensed acupuncturists and massage therapists to serve on the Probable Cause Panels, and in the case of acupuncturists, such cases of clear innocence were routinely judged in the defendant's favor, despite the sometimes misguided arguments of the lawyers of the Department of Health.

Nevertheless, I would often leave such meetings thinking, "If only these people had read their laws and rules. So much trouble and expense could have been avoided."

This course intends to empower you by getting you to read and understand Chapters 456, 480, and 64 B7 of the Florida Administrative Code, all of which govern your conduct in the massage profession. We have provided you with the most up to date set of laws and rules available. They are yours to keep.

Please note that the Florida Legislature and the Board of Massage are continually updating and changing these laws and rules. It is your responsibility to keep abreast of these changes and to govern yourself accordingly. The State of Florida, its Department of Health, and the Board of Massage will not, repeat, will not, routinely inform you of such changes by sending you a letter when they occur. They assume correctly that it is your individual responsibility under Florida law to remain knowledgeable about these laws and rules.

To that end, I have included the latest version of the Board of Massage's Florida Laws and Rules on my [www.hkacup.com](http://www.hkacup.com) website.

## **Summary of FL Massage Laws and Rules for 10 Hour Course**

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### **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.

### **480.046 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.

#### **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.

#### **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.
- (l) 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.**

### **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.

### **64B7-29.001 Definitions.**

- (1) **“Apprentice”** means a person meeting the qualifications stated in Rule 64B7-29.002, F.A.C., studying massage under the “direct supervision” of a “sponsoring massage therapist”.
- (2) **“Sponsoring Massage Therapist”** means a licensed massage therapist whose record with the Department indicates compliance with Chapters 456 and 480, F.S., and the rules promulgated thereunder. Further, a “sponsoring massage therapist” must have been engaged in the actual practice of massage for at least three (3) years prior to his “sponsorship”.
- (3) **“Sponsorship”** means the willingness of a “sponsoring massage therapist” to assume the responsibility for the “direct supervision” of only one apprentice by execution of the Sponsor’s Apprentice Application.
- (4) **“Direct Supervision”** means the control, direction, instruction, and regulation of an apprentice at a “qualified massage establishment” during the working hours of the establishment.
- (5) **“Qualified Massage Establishment”** means a licensed massage establishment which, in addition to meeting the requirements of Chapter 64B7-26, F.A.C., is equipped with the following:
  - (a) Tables.
  - (b) Linen and storage areas.
  - (c) Colonic equipment (required if colonic irrigation is taught).
  - (d) Sterilization equipment if non-disposable colonic attachments are utilized.
  - (e) Hydro-therapy equipment, which must include cold packs and hot packs.

Such equipment shall be that which is generally acceptable in the massage profession.

(f) Textbooks and teaching materials on the following subjects:

1. Physiology,
2. Anatomy,
3. Theory of Massage,
4. Hydro-therapy,
5. Statutes and Rules on Massage Practice,
6. Colonic Irrigation (if colonic equipment is present).

**64B7-26.001 Definitions.**

- (1) The term “owner” means the sole proprietor, partnership, limited partnership or corporation that operates the massage establishment.
- (2) The term “establishment” means a site or premises, or portion thereof, wherein a licensed massage therapist practices massage for compensation.
- (3) The term “business name” means the name under which the owner applies for the establishment license to provide massage therapy, if different from the name of the owner.

**64B7-27.008 Initial Fee for Licensure.**

- (1) Any person who is initially licensed pursuant to Rule 64B7-25.001, F.A.C., shall pay a fee of \$150.00.
- (2) Any person who is initially licensed pursuant to Rule 64B7-25.004, F.A.C., shall pay a fee of \$150.00.

**64B7-28.003 Biennial Period, Year Defined.**

Biennial period shall mean September 1 of each odd-numbered year and ending August 31 of each odd-numbered year. Biennial year shall mean every odd-numbered year.

**64B7-28.009 Continuing Education.**

- (1) Every massage practitioner licensed pursuant to Chapter 480, F.S., shall be required for renewal to complete one continuing education hour for each month or part of a month that shall have elapsed since the issuance of the license for which renewal is sought, up to a maximum requirement of 24 hours for the renewal period. Such courses shall have been approved for continuing education credit pursuant to Rule 64B7-28.010, F.A.C., and shall have been completed within the renewal period preceding the date renewal is due. Every massage practitioner must obtain the continuing education required for biennial renewal of the massage therapist’s license as set forth in Rule 64B7-28.001, F.A.C. Graduates of a Board approved massage school who received two hours of education in Chapters 480 and 456, F.S., and Rule Chapter 64B7, F.A.C., and two (2) hours of professional ethics



prior to initial licensure shall not be required to complete additional continuing education in the same subject matter for initial renewal of the license.

- (2) All continuing education requirements may be met by correspondence/home study courses, tape and/or video cassette courses, provided the course requires passing a test to be graded by the provider and the passing score is verified by the provider of the course. Video cassette courses shall not exceed 5 hours per subject and must meet the requirements of Rule 64B7-28.010, F.A.C. The vendor and the licensee shall verify in writing that all requirements of paragraph 64B7-28.010(2)(c) or (d), F.A.C., have been met. Such verification/validation shall clearly indicate the course is a “correspondence/home study course/tape or videocassette course” and that the licensee passed the course in order to be accepted as proof of attendance.
- (3) Effective for the biennium beginning September 1, 2001, the continuing education contact hours shall be in the following areas:
- (a) At least 12 continuing education hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology. As of September 1, 2007, the 12 continuing education hours shall be taken via live classroom instruction which includes hands-on instruction or demonstration, 6 hours of which may be performed as pro bono services pursuant to Rule 64B7-28.0095, F.A.C.
- (b) Except as provided in subsection 64B7-28.009(1), F.A.C., two hours must be obtained in a course relating to the prevention of medical errors, two hours must cover instruction in professional ethics and two hours must cover instruction in the laws and rules of massage therapy, including Chapters 480 and 456, F.S., and Rule Chapter 64B7, F.A.C. Up to 4 hours of continuing education credit for professional ethics and laws and rules may be earned on an hour for hour basis by physically attending Board meetings, provided that:
1. The licensee signs in with the Executive Director of the Board prior to the beginning of the meeting;
  2. The licensee remains in continuous attendance at the meeting;
  3. The licensee signs out of the meeting with the Executive Director of the Board in a pre-arranged time and manner.
  4. The licensee does not have a related discipline or licensure matter on the agenda for the same meeting day.
- (c) The remaining hours may include courses on communications with clients and other professionals, insurance relating to third party payment or reimbursement for services, psychological dynamics of the client-therapist relationship, risk management, including charting, documentation, record keeping, or infection control (other than the HIV/AIDS course required by Section 456.034, F.S.), or massage practice management. The remaining hours may also include up to 4 hours credit for adult cardio-pulmonary resuscitation (CPR), provided the course



is sponsored by the American Red Cross, the American Heart Association or the American Safety and Health Institute, or is instructed by persons certified to instruct courses for those organizations.

- (4) The licensee shall retain, for not less than four years, such receipts, vouchers or certificates as are necessary to document completion of the continuing education stated on the renewal application.
- (5) At the end of each biennium, the Board will audit a number of randomly selected licensees to assure that the continuing education requirements have been met. Within 21 days of a request from the Board or Department, the licensee must provide written documentation that the continuing education requirements have been met.

#### **64B7-28.0015 Place of Practice Defined.**

- (1) The reporting requirements of Section 456.035, F.S., require each licensee to provide to the Board a current mailing address and a “place of practice.” The current mailing address and place of practice may be one and the same, or may be two different addresses if the licensee does not receive mail at his or her place of practice.
- (2) “Place of practice” shall mean:
  - (a) A massage establishment maintained by the licensed massage therapist; or
  - (b) The massage establishment at which the licensed massage therapist provides massage therapy; or
  - (c) The medical office at which the licensed massage therapist provides massage therapy; or
  - (d) If the licensed massage therapist practices at more than one location, one such location as selected by the licensed massage therapist;
  - (e) If the licensed massage therapist provides massage therapy only at the location of clients, the place of practice is the residence address of the therapist.

#### **64B7-28.0095 Continuing Education for Pro Bono Services.**

- (1) Up to 6 hours of continuing education per biennium in satisfaction of paragraph 64B7-28.009(3)(a), F.A.C., may be awarded 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.
- (2) In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval, 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.
- (3) Credit shall be given on an hour per hour basis.
- (4) 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.

### **64B7-29.001 Definitions.**

- (1) “Apprentice” means a person meeting the qualifications stated in Rule 64B7-29.002, F.A.C., studying massage under the “direct supervision” of a “sponsoring massage therapist”.
- (2) “Sponsoring massage therapist” means a licensed massage therapist whose record with the Department indicates compliance with Chapters 456 and 480, F.S., and the rules promulgated thereunder. Further, a “sponsoring massage therapist” must have been engaged in the actual practice of massage for at least three (3) years prior to his “sponsorship”.
- (3) “Sponsorship” means the willingness of a “sponsoring massage therapist” to assume the responsibility for the “direct supervision” of only one apprentice by execution of the Sponsor’s Apprentice Application.
- (5) “Direct supervision” means the control, direction, instruction, and regulation of an apprentice at a “qualified massage establishment” during the working hours of the establishment.
- (6) “Qualified massage establishment” means a licensed massage establishment which, in addition to meeting the requirements of Chapter 64B7-26, F.A.C., is equipped with the following:
- (a) Tables.
  - (b) Linen and storage areas.
  - (c) Colonic equipment (required if colonic irrigation is taught).
  - (d) Sterilization equipment if non-disposable colonic attachments are utilized.
  - (e) Hydro-therapy equipment, which must include cold packs and hot packs. Such equipment shall be that which is generally acceptable in the massage profession.
  - (f) Textbooks and teaching materials on the following subjects:

1. Physiology,
2. Anatomy,
3. Theory of Massage,
4. Hydro-therapy,
5. Statutes and Rules on Massage Practice,
6. Colonic Irrigation (if colonic equipment is present).

### **64B7-29.003 Apprenticeship Training Program.**

- (1) All apprenticeship training shall be conducted by the licensed sponsoring massage therapist, in a qualified massage establishment licensed pursuant to Section 480.043, F.S.
- (2) Apprenticeship training shall be 12 months in duration and shall be completed within 24 months of commencement. The apprentice shall complete within the first quarter of the apprenticeship training program:
  - (a) 100 hours of study in Physiology,
  - (b) 100 hours of study in Anatomy, and
  - (c) 15 hours of study in Statutes and Rules of Massage Practice.
- (3) Course of Study for Apprentices, which incorporates that required in (2)(a), shall be as follows:
  - (a) 300 hours of Physiology.
  - (b) 300 hours of Anatomy.
  - (c) 20 hours of Theory and History of Massage.
  - (d) 50 hours of Theory and Practice of Hydro-Therapy.
  - (e) 5 hours of Hygiene.
  - (f) 25 hours of Statutes and Rules of Massage Practice.
  - (g) 50 hours of Introduction to Allied Modalities.
  - (h) 700 hours of Practical Massage.
  - (i) 3 hours of Board-approved HIV/AIDS instruction.
- (4) The sponsoring massage therapist shall maintain at the establishment a daily record of hours completed by the apprentice in each of the areas listed in subsection (3) above. This

record shall be available for inspection during regular business hours and shall be inspected by a representative of the Department at least once within 12 months from the commencement of the apprenticeship.

- (5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399-3256. If quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship shall be terminated.
- (6) A graduate of a board-approved massage school who enters the apprenticeship training program, at any time after he has taken the initial licensure examination or subsequent re-examinations thereafter, must complete the entire program as required above prior to taking subsequent re-examinations. Any applicant who enters the apprenticeship training program and terminates the program is prohibited from taking the licensure examination for 1 year from the date of termination. An individual may be exempted from this provision if he terminates the apprenticeship training program and subsequently completes a program at a board-approved massage school.

### **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.

### **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;

### **64B7-30.002 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 480.0485, 480.046, 480.047 and 456.072, F.S., 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 (3) of this rule:

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| <p><b>(q) 456.072(1)(l) –<br/>filing a false report<br/>required by law</b></p> <p><b>If the offense is for fraud or<br/>making a false or fraudulent<br/>representation,</b></p>   | <p><b>First offense: \$500.00 fine and probation;<br/>subsequent offense: \$1,000.00 fine and revocation.</b></p> <p><b>first offense: \$10,000.00 fine and probation;<br/>subsequent offense: \$10,000.00 fine and revocation.</b></p> |
| <p><b>(w) 456.072(1)(u)<br/>engaging or attempting to engage<br/>a patient or client in verbal or<br/>physical sexual activity.</b></p>   | <p><b>Verbal first offense: \$1,000.00 fine and probation;<br/>Physical: \$1,000.00 fine and revocation.<br/>subsequent offense: verbal or physical, \$1,000.00 fine<br/>and revocation.</b></p>  |
| <p><b>(z) 456.072(1)(x)<br/>using information about people<br/>involved in motor vehicle<br/>accidents which has been derived<br/>from accident reports made by<br/>law enforcement officers or<br/>persons involved in accidents, or<br/>using information published in a<br/>newspaper or other news<br/>publication or through a radio or<br/>television broadcast that has used<br/>information gained from such<br/>reports for the purpose of<br/>commercial or any other<br/>solicitation whatsoever of the<br/>people involved in such accidents.</b></p> | <p><b>First offense: \$500.00 fine and probation;<br/>second offense: \$500.00 fine and suspension;<br/>third offense: \$500.00 fine and revocation.</b></p>  |

(2) If an establishment licensed pursuant to Chapter 480, F.S., is found to have obtained such license by fraud or misrepresentation, the usual action of the Board shall be revocation of the license and prohibition of reapplication by the holder of the license for a period of two years.

(3) 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 licensees 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.
- (4) 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.
- (5) 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.
- (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 pursue or recommend the Department pursue collateral, civil or criminal actions when appropriate.
- (7) 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.
- (8) 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 suspension shall be lifted.
- (9) For the purposes of Sections 480.033(4) and 480.047(1)(a), F.S., "Compensation" is defined as the payment of money or its equivalent; the receipt or delivery of property; the performance of a service; or the receipt or delivery of anything of value, to the person giving a massage in exchange for massage services.

#### **64B7-30.007 Probable Cause Panel.**

The determination of probable cause shall be made by the probable cause panel of the board. The probable cause panel shall consist of two members, and may include a former board member. The chair of the board shall appoint the panel members.

#### **64B7-31.001 Colonic Irrigation.**

- (1) Intent.
  - (a) The Board of Massage finds that the colonic irrigation procedures, while falling directly within the scope of Chapter 480, Florida Statutes, presents a substantial danger to the public if performed by incompetent practitioners.
  - (b) The Board of Massage further finds that a significant proportion of licensees do not perform the colonic procedure and further that a significant proportion of those desiring to enter the profession do not intend to engage in the practice of colonics.



- (c) This rule is promulgated to ensure that only those who have been determined duly qualified to practice colonic irrigation may do so in an effort to protect the health, safety and welfare of the public.
- (2) Prior to the practice of colonic irrigation, 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.
- (3) Prior to the practice of colonic irrigation, any licensed massage therapist, or apprentice shall be required to successfully complete and pass the colonic irrigation examination administered by the Department of Health.
- (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 colonic irrigation examination administered by the Department 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 colonics, shall be required to successfully complete and pass the colonics examination administered by the Department prior to practicing colonic irrigation.

### **64B7-32.001 Definitions.**

For the purposes of this rule 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 in the physical presence of a member of the faculty of the school.

### **64B7-31.001 Colonic Irrigation.**

- (1) Intent.
  - (a) The Board of Massage finds that the colonic irrigation procedures, while falling directly within the scope of Chapter 480, Florida Statutes, presents a substantial danger to the public if performed by incompetent practitioners.
  - (b) The Board of Massage further finds that a significant proportion of licensees do not perform the colonic procedure and further that a significant proportion of those desiring to enter the profession do not intend to engage in the practice of colonics.
  - (c) This rule is promulgated to ensure that only those who have been determined duly qualified to practice colonic irrigation may do so in an effort to protect the health, safety and welfare of the public.
- (2) Prior to the practice of colonic irrigation, 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.**

**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.