

FLORIDA'S 2018 LAWS AND RULES FOR MASSAGE THERAPY (2 CREDIT HOURS)

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COURSE OBJECTIVES:

After completing this course, the participant will be able to:

- 1) Identify the two legislative bodies of the Florida Legislature.
- 2) Differentiate between statutes, rules, and regulations.
- 3) Describe four (4) reasons the department may issue an emergency order suspending the license of a massage therapist or establishment.
- 4) List the five (5) acts that constitute misconduct and negligence in the Practice of Massage Therapy.
- 5) Define "citation" and list at least four (4) citation violations, according to Chapter 64B7-30.004.
- 6) Identify felony offenses that will deny licensure or renewal if convicted or found guilty, or enters a plea of guilty or nolo contendere, according to Chapter 480.041.



INTRODUCTION

State laws and regulations significantly affect the practice of massage therapy. An essential key to success is understanding the law surrounding one's profession. The major purpose of regulation is to protect consumers in a state or jurisdiction from unqualified or unscrupulous practitioners. As the field of massage therapy has evolved, so has the need to protect the public. Massage therapy has a significant impact on a person's health and well-being, therefore the public should expect that a massage therapist has the qualifications needed to practice effectively and safely.

Just as this regulation engenders public trust, it also promotes the profession, making it more credible. It provides the framework from within which one can practice their profession, set limitations, and provides for penalties for those who do not comply.

The Florida Legislature has two legislative bodies, the House of Representatives, consisting of 120 members and 40 Senators. Each year laws are newly enacted, amended, or repealed, so it is central to investigate legislative actions affecting

the massage therapy profession to identify new regulation. The regular legislative session starts on the first Tuesday after the first Monday in March for a period not to exceed 60 calendar days. There are a number of ways to keep track of annual regulatory laws and rules which will be referenced within this course chapter.

Most regulations are developed and enacted through a rule-making process, which includes public input. State agencies hold open meetings and public hearings, allowing licensees and citizens to participate in the creation of regulations. Participation in the process is extremely important, but often overlooked by professional licensees. It provides a unique opportunity for massage therapists to influence and shapes laws directly. Most regulations are in effect for only a limited period of time and must be updated or reenacted on a regular basis, thus another point to the importance of keeping up with legislative changes.

UNDERSTANDING THE FLORIDA LEGISLATIVE PROCESS

The Florida Constitution establishes the powers and duties of The Florida Senate. The Legislative Branch, as defined in the Constitution, has exclusive lawmaking power. In a simplified version, legislators propose bills which, if passed favorably by both houses and approved by the Governor, becomes law. After the bill is approved, it is codified into the Florida Statutes to become law. The Florida Statutes are updated annually after the conclusion of a regular legislative session, typically published in July/August.

The Florida Department of Health is responsible for the regulation of health practitioners, including the massage therapy profession. The Board of Massage Therapy is responsible for the licensure, monitoring and education of Massage Therapy

professionals to assure competency and safety to practice in their service to the people of Florida.

Massage Therapy legislation consists of the following:

- Florida Statute Chapter 456: Health Professions and Occupations: General Provisions
- Florida Statute Chapter 480: Massage Practice Act Florida Administrative Code
- Florida Administrative Code (F.A.C.) Chapter 64B: Division of Medical Quality Assurance
- Florida Administrative Code (F.A.C.) Chapter 64B7: Board of Massage

STATUTES, RULES AND REGULATIONS

In order to not get overwhelmed with terms, it is important to understand the difference between a statute, a rule and regulation. The term “statute” simply refers to a law enacted by a legislative body of a government, whether federal or state.

To implement, interpret and describe laws found in Florida statutes are rules. Regulations can either be a law or a rule prescribed by authority, especially to regulate conduct. The primary difference between a rule and regulation is that while rules have no legally binding implications, regulations are legally binding.

Authorized by statutes, regulations (called rules or administrative laws) have the effect of law. Someone violating a regulation is, in effect, violating the law that created it. Regulations are designed to increase flexibility and efficiency in the operation of laws. Many of the actual working provisions of statutes are embodied in regulations.

Regulation is a major way in which government influences the U.S. market economy. The scope of government regulations is vast and reaches all sectors of the economy and all aspects of our daily lives.

Basis for Comparison	RULES	REGULATIONS
Meaning	The rules are the set of instruction which tells us the way things are to be done.	Regulations are the rules which are authorized by the legislation.
Nature	Flexible	Rigid
Made as per	Conditions and Circumstances	Act
Set By	Individual and Organization	Government

CHAPTER 456-HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

This complete chapter involves health professions and not all the information always applies to the massage therapy profession. Due to this, listed are the chapter numbers and titles that are more applicable to massage therapists. Many of these provisions are also detailed in the Massage Therapy Practice Act, Chapter 480 F.S. which will be discussed following this section.

Every massage therapists and massage establishment owner, licensed in Florida, MUST get their electronic fingerprints scanned and have a criminal background check as the next statute explains.

456.0135 General background screening provisions.—

(1) An application for initial licensure received on or after January 1, 2013, under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, s. 465.022, part XIII of chapter 468, **or chapter 480 shall include fingerprints pursuant to procedures established by the department through a vendor approved by the Department of Law Enforcement and fees imposed for the initial screening and retention of fingerprints.** Fingerprints must be submitted electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Each board, or the department if there is no board, shall screen the results to determine if an applicant meets licensure requirements. For any subsequent renewal of the applicant's license that requires a national criminal history check, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the fingerprints are enrolled in the national retained print arrest notification program.

(2) All fingerprints submitted to the Department of Law Enforcement as required under subsection (1) shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and (3) and enrolled in the national retained print arrest notification program at the Federal Bureau of Investigation when the Department of Law Enforcement begins participation in the program. The department shall notify the Department of Law Enforcement regarding any person whose fingerprints have been retained but who is no longer licensed.

(3) The costs of fingerprint processing, including the cost for retaining fingerprints, shall be borne by the applicant subject to the background screening.

(4) All fingerprints received under this section shall be entered into the Care Provider Background Screening Clearinghouse as provided in s. 435.12.

History.—s. 13, ch. 2012-73; s. 1, ch. 2014-139; s. 13, ch. 2015-116.

CHAPTER 456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

By amending this statute again in 2017, the military and their spouses can obtain licensure under specific conditions. The Department of Health (DOH) is authorized to waive fees and issue health care licenses to active duty U.S. military personnel who are within six months of an

honorable discharge; and to waive fees and issue licenses, except for dental licenses, to active duty military spouses if the person is a practitioner in a profession for which licensure in another state or jurisdiction is not required, under certain circumstances. The chapter follows.

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state, or the department when there is no board, and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, or the department when there is no board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

(2) The boards listed in s. 20.43, or the department when there is no board, shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

(3)(a) A person is eligible for licensure as a health care practitioner in this state if he or she:

- 1) Serves or has served as a health care practitioner in the United States Armed Forces, the United States Reserve Forces, or the National Guard;
- 2) Serves or has served on active duty with the United States Armed Forces as a health care practitioner in the United States Public Health Service; or
- 3) Is a health care practitioner in another state, the District of Columbia, or a possession or territory of the United States and is the spouse of a person serving on active duty with the United States Armed Forces.

The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a

health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

3(b) The board, or the department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.
2. If he or she is a member of the United States Armed Forces, the United States Reserve Forces, or the National Guard, submits proof that he or she has received an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3.a. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application;

b. Is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces, if he or she submits to the department evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state; or

c. Is the spouse of a person serving on active duty in the United States Armed Forces and is a health care practitioner in a profession for which licensure in another state or jurisdiction is not required, if he or she submits to the department evidence of training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(continued)

4. Attests that he or she is not, at the time of submission of the application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.
5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.
6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

3(c) Each applicant who meets the requirements of this subsection shall be licensed with all rights and responsibilities as defined by law. The applicable board, or the department if there is no board, may deny an application if the applicant has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession regulated by this state.

3(d) An applicant for initial licensure under this subsection must submit the information required by ss. 456.039(1) and 456.0391(1) no later than 1 year after the license is issued.

(4)(a) The board, or the department if there is no board, may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:

1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules;
2. The required application fee;
3. Proof that the applicant is married to a member of the Armed Forces of the United States who is on active duty;
4. Proof that the applicant holds a valid license for the profession issued by another state, the

District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter;

5. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; and

6. Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.

(b) The applicant must also submit to the Department of Law Enforcement a complete set of fingerprints. The Department of Law Enforcement shall conduct a statewide criminal history check and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c) Each board, or the department if there is no board, shall review the results of the state and federal criminal history checks according to the level 2 screening standards in s. 435.04 when granting an exemption and when granting or denying the temporary license.

(d) The applicant shall pay the cost of fingerprint processing. If the fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(e) The department shall set an application fee, which may not exceed the cost of issuing the license.

(f) A temporary license expires 12 months after the date of issuance and is not renewable.

(g) An applicant for a temporary license under this subsection is subject to the requirements under s. 456.013(3)(a) and (c).

(h) An applicant shall be deemed ineligible for a temporary license pursuant to this section if the applicant:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(continued)

1. Has been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
 2. Has had a health care provider license revoked or suspended from another of the United States, the District of Columbia, or a United States territory;
 3. Has been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have his or her name removed from the data bank; or
 4. Has previously failed the Florida examination required to receive a license to practice the profession for which the applicant is seeking a license.
- (i) The board, or department if there is no board, may revoke a temporary license upon finding that the individual violated the profession's governing practice act.
- (5) The spouse of a person serving on active duty with the United States Armed Forces shall have a defense to any citation and related cause of action brought under s. 456.065 if the following conditions are met:
- (a) The spouse holds an active, unencumbered license issued by another state or jurisdiction to provide health care services for which there is no equivalent license in this state.
 - (b) The spouse is providing health care services within the scope of practice of the out-of-state license.
 - (c) The training or experience required by the out-of-state license is substantially similar to the license requirements to practice a similar health care profession in this state.
- History.—s. 35, ch. 97-261; s. 19, ch. 99-7; s. 73, ch. 99-397; s. 54, ch. 2000-160; s. 1, ch. 2011-95; s. 28, ch. 2014-1; s. 11, ch. 2016-230; s. 8, **ch. 2018-7**.
Note.—Former s. 455.507.

456.037 Business establishments; requirements for active status licenses; delinquency; discipline; applicability.—

- (1) A business establishment regulated by the Division of Medical Quality Assurance pursuant to this chapter may provide regulated services only if the business establishment has an active status license. A business establishment that provides regulated services without an active status license is in violation of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the business establishment.
 - (2) A business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active status license before the license expires. If a business establishment fails to renew before the license expires, the license becomes delinquent, except as otherwise provided in statute, in the license cycle following expiration.
 - (3) A delinquent business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, for active status within 6 months after becoming delinquent. Failure of a delinquent business establishment to renew the license within the 6 months after the expiration date of the license renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on a business establishment for new licensure.
 - (4) The status or a change in status of a business establishment license does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a business establishment for acts or omissions committed by the business establishment while holding a license, whether active or null.
 - (5) This section applies to any business establishment registered, permitted, or licensed by the department to do business. Business establishments include, but are not limited to, dental laboratories, electrology facilities, massage establishments, pharmacies, and pain-management clinics required to be registered under s. 458.3265 or s. 459.0137.
- History.—s. 89, ch. 99-397; s. 64, ch. 2000 160; s. 27, ch.

Changes to Chapter 456.074-Certain health care practitioners; immediate suspension of license.—

Chapter 456.074 was amended in 2016 by House Bill 454. It establishes harsher penalties for individuals who commit human trafficking and protects victimized children from being convicted for criminal charges.

This legislation moves Florida one step closer to ending human trafficking in this state by implementing these harsher punishments for human traffickers while ensuring that the state's most vulnerable are protected from further exploitation.

The bill also adds human trafficking as a qualifying felony offense for first degree felony murder.

The penalties for a first-time violation of s. 796.06(2), F.S. (renting a space to be used for lewdness, assignation, or prostitution), are increased from a second degree misdemeanor to a first degree misdemeanor. The penalties for a second or subsequent violation are increased from a first degree misdemeanor to a third degree felony.

The bill addresses prostitution and related acts by:

- Removing minors from being prosecuted for prostitution, lewdness, or assignation.

- Revising the definition of the term "sexual abuse of a child" in s. 39.01, F.S. to delete reference to a child being arrested or prosecuted for a violation of prostitution.
- Reclassifying a violation to the next degree higher if the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of the statute is a massage establishment that is or should be licensed under s. 480.043, F.S.
- Adding s. 796.07, F.S., to the list of offenses which requires an emergency order suspending a massage therapist or establishment license and denying an application for a new or renewal massage therapist or establishment license.

Finally, the bill adds the offense of racketeering to the list of qualifying offenses for classification as a sexual predator or sexual offender, only if the court makes a written finding that the racketeering activity involved at least one registration-qualifying sexual offense or one registration-qualifying offense with sexual intent or motive. The section applicable to massage therapists follows:

456.074 Certain health care practitioners; immediate suspension of license.—

(5) The department shall issue an emergency order suspending the license of a massage therapist or establishment as defined in chapter 480 upon receipt of information that the massage therapist, 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 has entered a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or 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) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
- (i) Former s. 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)(a)3., 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.

456.074 Certain health care practitioners; immediate suspension of license.—

(continued)

(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.

History.—s. 88, ch. 97-261; s. 25, ch. 99-7; s. 87, ch. 99-397; s. 92, ch. 2000-160; s. 73, ch. 2001-277; s. 1, ch. 2002-254; s. 66, ch. 2008-6; s. 26, ch. 2009-223; s. 2, ch. 2014-139; s. 55, ch. 2015-2; s. 54, ch. 2016-10; s. 4, ch. 2016-24.

Note.—Former s. 455.687.

CHAPTER 480, MASSAGE THERAPY PRACTICE ACT

These are the laws and rules applicable to massage therapists. The complete chapter can be viewed in its entirety at <https://floridasmassagetherapy.gov/resources/>

480.033 Definitions.—as used in this act:

The change to this chapter substitutes the terminology ‘Effective Access to Student Education Grant Program’ for ‘Florida Resident Access Grant Program’ and the term ‘Effective Access to Student Education grant’ for ‘Florida resident access grant’ wherever those terms appear in the Florida Statutes.

(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 that meets minimum standards for training and curriculum as determined by rule of the board and that 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 or a college or university that is eligible to participate in the William L. Boyd, IV, ¹Effective Access to Student Education Grant Program.

History.—s. 3, ch. 78-436; ss. 13, 15, 25, 30, 34, 50, 62, ch. 80-406; s. 2, ch. 81-318; s. 76, ch. 83-329; ss. 1, 12, 13, ch. 85-280; s. 50, ch. 89-374; s. 4, ch. 91-429; s. 169, ch. 94-218; s. 67, ch. 95-144; s. 149, ch. 97-264; s. 116, ch. 2001-277; s. 1025, ch. 2002-387; s. 1, ch. 2013-212; s. 25, **ch. 2018-4.**

¹Note.—Section 25, ch. 2018-4, directs the Division to Law Revision and Information “to substitute the term ‘Effective Access to Student Education Grant Program’ for ‘Florida Resident Access Grant Program’ and the term ‘Effective Access to Student Education grant’ for ‘Florida resident access grant’ wherever those terms appear in the Florida Statutes.”

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 high school 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.

History.—s. 5, ch. 78-436; ss. 13, 15, 25, 30, 34, 51, 62, ch. 80-406; s. 2, ch. 81-318; ss. 2, 12, 13, ch. 85-280; s. 51, ch. 89-374; s. 4, ch. 91-429; s. 170, ch. 94-218; s. 411, ch. 97-103; s. 151, ch. 97-264; s. 151, ch. 98-200; s. 8, ch. 2014-20.

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.

History.—s. 6, ch. 78-436; s. 2, ch. 81-318; ss. 12, 13, ch. 85-280; s. 4, ch. 91-429.

480.039 Investigative services.—

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

History.—s. 9, ch. 78-436; s. 2, ch. 81-318; ss. 3, 12, 13, ch. 85-280; s. 4, ch. 91-429.

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 high school 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.

480.041 Massage therapists; qualifications; licensure; endorsement.—

(continued)

(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 violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or 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) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. 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)(a)3., 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.

History.—s. 10, ch. 78-436; ss. 13, 15, 25, 30, 34, 52, 62, ch. 80-406; s. 2, ch. 81-318; ss. 25, 47, ch. 82-179; s. 77, ch. 83-329; ss. 4, 12, 13, ch. 85-280; s. 61, ch. 87-225; s. 52, ch. 89-374; s. 4, ch. 91-429; s. 153, ch. 94-119; s. 152, ch. 97-264; s. 9, ch. 2014-20; s. 3, ch. 2014-139; s. 59, ch. 2015-2; s. 63, ch. 2016-10; s. 5, ch. 2016-24.

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.

*History.—*ss. 5, 13, ch. 85-280; s. 53, ch. 89-374; s. 4, ch. 91-429; s. 230, ch. 94-119; s. 153, ch. 97-264.

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.

*History.—*s. 13, ch. 78-436; ss. 13, 15, 25, 30, 34, 55, 62, ch. 80-406; s. 2, ch. 81-318; ss. 7, 12, 13, ch. 85-280; s. 24, ch. 88-205; s. 54, ch. 89-162; s. 55, ch. 89-374; s. 4, ch. 91-429; s. 157, ch. 97-264; s. 127, ch. 98-166; s. 187, ch. 2000-160.

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.

*History.—*ss. 9, 13, ch. 85-280; s. 2, ch. 88-233; s. 57, ch. 89-374; s. 4, ch. 91-429; s. 5, ch. 2014-139.

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 licenseholder 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.

History.—s. 16, ch. 78-436; s. 2, ch. 81-318; ss. 10, 12, 13, ch. 85-280; s. 58, ch. 89-374; s. 4, ch. 91-429; s. 414, ch. 97-103; s. 158, ch. 97-264; s. 3, ch. 2013-212.

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 practice registered nurse 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.

History.—s. 4, ch. 2013-212; s. 64, ch. 2018-106.

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. *History.—s. 159, ch. 97-264.*

480.0535 Documents required while working in a massage establishment.—

(1) In order to provide the department and law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking, a person employed by a massage establishment and any person performing massage therein must immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment. A valid government identification for the purposes of this section is:

- (a) A valid, unexpired driver license issued by any state, territory, or district of the United States;
- (b) A valid, unexpired identification card issued by any state, territory, or district of the United States;
- (c) A valid, unexpired United States passport;
- (d) A naturalization certificate issued by the United States Department of Homeland Security;
- (e) A valid, unexpired alien registration receipt card (green card); or
- (f) A valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

(2) A person operating a massage establishment must:

(a) Immediately present, upon the request of an investigator of the department or a law enforcement officer:

- 1. Valid government identification while in the establishment.
- 2. A copy of the documentation specified in paragraph (1)(a) for each employee and any person performing massage in the establishment.

(b) Ensure that each employee and any person performing massage in the massage establishment is able to immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment.

(3) A person who violates any provision of this section commits:

- (a) For a first violation, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (b) For a second violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (c) For a third or subsequent violation, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 2012-97.

CHAPTER 64B7

In this section, we will review the chapter regarding disciplinary matters and the specific chapters which were amended in 2018. . The complete chapter is available in its entirety at <https://floridasmassagetherapy.gov/resources/>

The complete Administrative Code covers the following:

64B7-24 ORGANIZATION

64B7-25 EXAMINATION (amended in 2018)

64B7-26 MASSAGE ESTABLISHMENTS

64B7-27 FEE SCHEDULE

64B7-28 BIENNIAL LICENSE RENEWAL

64B7-29 APPRENTICESHIP

64B7-30 DISCIPLINE

64B7-31 COLONIC IRRIGATION (**Repealed**)

64B7-32 BOARD APPROVED MASSAGE SCHOOL

64B7-33 ADVERTISEMENT

64B7-25.001 Examination Requirements. *This chapter was amended in 2018 to clarify licensing requirements for massage therapists in the State of Florida, including examination requirements for colonic hydrotherapy.*

(1) The Department shall issue a license by examination to a person who:

(a) Pays to the Department the initial licensure fee set forth in subsection 64B7-27.100, F.A.C.;

(b) Submits a completed application on form DH-MQA 1115, "Massage Therapist Licensure Application," (Rev. 7/16). 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://floridasmassageandtherapy.gov/applications/massage-app.pdf> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-07947>.

To apply on-line, visit <https://flhealthsource.gov/mqa-services>;

(c) Provides proof of graduation per Rule 64B7-32.002, F.A.C., from a Board-approved massage school as defined in Section 480.033(9), F.S.;

(d) Presents certification to the Board of successful completion of an approved examination for licensure; and,

(e) Submits to the background screening provisions as set forth in Section 456.0135, F.S.

(2) Prior to the practice of colon hydrotherapy, any licensed massage therapist or massage therapy apprentice must:

(a) Submit a completed application entitled Application for Colon Hydrotherapy Upgrade to Massage Therapist License with Instructions, form DH-MQA 1247 (Rev. 01/13). The form is 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://floridasmassageandtherapy.gov/applications/massage-colon-upgrade.pdf> or

<http://www.flrules.org/Gateway/reference.asp?No=Ref-09173>.

To apply on-line, visit

<http://flhealthsource.gov/mqa-services>;

(b) Provide proof of completion of a course of study in colonic irrigation at a Board approved massage school per Rule 64B7-32.005, F.A.C., or a course of study equal to or more stringent than the course of study in colonic irrigation in subsection 64B7-32.005(3), F.A.C., with an approved provider or school in another state, or a colonic irrigation apprenticeship per Rule 64B7-29.007, F.A.C.; and,

(c) Present certification to the Board of successful completion of an approved examination for colonic irrigation.

(3) The Board approves the following examinations for licensure:

(a) The Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards;

(b) National Certification Board for Therapeutic Massage and Bodywork Examination;

(c) National Certification Examination for Therapeutic Massage;

(d) National Exam for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork.

(e) The state examination in Florida, offered prior to 1996.

(4) The Board approves the following examination for certification in colonic irrigation: The National Board for Colon Hydrotherapy Examination.

*Rulemaking Authority 456.013(7), 456.017(1)(c), 480.035(7), 480.041(2), 480.042(1), 480.044 FS. Law Implemented 456.013(7), 456.017(1)(c), 456.0635, 480.041, 480.042, 480.044 FS. History—New 11-27-79, Amended 9-2-80, 10-9-85, Formerly 21L-25.01, Amended 12-22-92, 3-24-93, 5-20-93, Formerly 21L-25.001, Amended 8-12-93, 6-28-94, 8-18-96, Formerly 61G11-25.001, Amended 5-20-98, 7-30-02, 3-31-08, 6-15-09, 9-6-09, 6-2-10, 12-24-13, 6-2-14, 10-2-14, 3-14-16, 10-2-16, 3-13-17, **3-22-18**.*

4B7-25.0011 Colonic Irrigation Application.

Rulemaking Authority 480.041(4)(b) FS. Law Implemented 480.041(4)(b) FS. History—New 11-25-80, Amended 7-12-82, Formerly 21L-25.011, Amended 3-12-90, Formerly 21L-

*25.0011, Amended 9-30-93, 9-15-94, 7-2-96, Formerly 61G11-25.0011, Amended 11-2-00, 6-19-13, **Repealed 3-22-18**.*

64B7-25.004 Endorsements. *The following section was amended to open additional pathways to licensure by endorsement for therapists licensed in other states by allowing submission of approved examination results for examinations completed subsequent to the issuance of licensure in the endorsing state.*

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 64B7-27.001, F.A.C.;

(2) Submits a completed application on form DH-MQA 1115, "Massage Therapist Licensure Application," (Rev. 7/16), adopted and incorporated by reference in Rule 64B7-25.001, F.A.C.;

(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 Sections 456, 480, F.S., and Rule Title 64B7, F.A.C.

(4) Demonstrates that the out-of-state license was issued upon the satisfactory completion of an examination comparable to the examination approved by the Board or presents certification to the Board of successful completion of an approved examination for licensure subsequent to the issuance of the out-of-state license;

(5) Has no outstanding or unresolved complaints filed in any jurisdiction where licensure is held; and,

(6) Completes a 10 hour Florida Laws and Rules course offered by a Board approved school or Board approved continuing education provider.

Rulemaking Authority 456.013(2), 480.035(7), 480.041(4)(c) FS. Law Implemented 456.013(2), 480.041(4)(c) FS. History—New 11-27-79, Amended 7-9-80, 8-29-83, 10-9-85, Formerly 21L-25.04, Amended 6-12-88, 8-15-89, 2-11-93, Formerly 21L-25.004, Amended 9-15-94, 1-9-95, 8-18-96, 1-29-97, Formerly 61G11-25.004, Amended 6-22-99, 12-6-06, 3-31-08, 6-15-09, 7-21-10, 1-16-14, 3-13-17, 3-22-18.

CHAPTER 64B7-30 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.

Rulemaking Authority 480.035(7), 480.046(1)(h) FS. Law Implemented 480.032, 480.046(1), (1)(h), (2) FS. History—New 9-5-84, Amended 9-25-85, 1-1-86, Formerly 21L-30.01, Amended 3-26-87, 1-29-89, 11-15-92, Formerly 21L-30.001, Amended 2-13-95, Formerly 61G11-30.001, Amended 9-14-98.

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 480.041, 480.043, 480.0485, 480.046, 480.047 and 456.072, F.S., and/or Division 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: \$10,00

One woman convicted, seven await sentencing- Massage Parlor Sex Case

A Naples woman arrested in 2017 for racketeering violations connected to massage parlors and spas has pleaded guilty and is serving time in a Florida prison. Seven others in the same case are facing sentencing.

The eight, from Naples, Cape Coral, Sarasota, and New York, were among more than a dozen-and-a-half people arrested in June 2017 at spas and massage parlors from Naples to Tallahassee by the Florida Department of Law Enforcement.

Their charges ranged from public order crimes, racketeering violations, money laundering — all felonies — and a misdemeanor health-safety violation of operating a massage parlor as a principal domicile.

<https://www.news-press.com/story/news/crime/2018/11/19/massage-parlor-sex-cases-start-resolve/1921490002/>

Florida Board of Health suspends or restricts 39 licenses, including 11 in Tampa Bay area

The Florida Department of Health issued 39 Emergency Suspension Orders and Emergency Restriction Orders for serious violations, including the commission of crimes, violations of standards of care, drug use, impairment, drug diversion, sexual misconduct and defaulting on a student loan.

<https://www.abcactionnews.com/news/local-news/i-team-investigates/florida-board-of-health-suspends-or-restricts-39-licenses-including-11-in-tampa-bay-area>

Six Florida massage therapists disciplined after allegations of sexual misconduct

Hill gave up her license after the Department of Health found a 2017 Hernando County Sheriff's Office arrest under "Brandi Camille Mali" that alleged sexual battery with a vibrator and another sex toy against a minor to whom she gave alcohol and marijuana. Hill pleaded not guilty to two counts of unlawful sexual activity with a minor and one count of contributing to the delinquency of a minor. That case is pending.

<https://www.miamiherald.com/news/state/florida/article211169274.html>

(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 Fraudulent misrepresentation Licensed through error of Department or Board	\$1000 fine and suspension or denial of licensure \$10,000 fine Revocation	Revocation \$10,000 fine and suspension	 \$10,000 fine and revocation
(b) Section 480.046(1)(b) or 456.072(1)(f), F.S.	Discipline consistent with 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 Felonies Crimes relating to assault, battery, abuse or which otherwise cause bodily harm, prostitution or solicitation for prostitution Crimes relating to fraud	\$250 fine \$500 fine and probation \$1,000 fine and revocation \$10,000 fine	\$500 fine and probation \$500 fine and suspension \$10,000 fine and suspension	\$500 fine and suspension \$1,000 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. Fraudulent misrepresentations	\$1,000 fine and reprimand \$10,000 fine	\$1,000 fine and probation \$10,000 fine and suspension	Revocation \$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

VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(n) Section 480.046(1)(n), F.S. 1. Establishment license delinquent 2. Establishment license suspended – site owned by massage therapist	\$100 fine for the first month and \$50 for each succeeding month or part thereof and reprimand 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. 1. Section 480.0465, F.S. 2. Section 480.0485, F.S. 3. Section 456.036(1), F.S. Delinquent license 4. Section 456.036(1), F.S. Suspended or inactive license 5. Section 480.047(1)(b), F.S. Violator’s license Delinquent 6. Section 480.047(1)(b), F.S. Violator’s license Suspended or inactive 7. Section 480.047(1)(c), F.S. 8. Section 480.047(1)(d), F.S. Licensee Applicant 9. Section 480.047(1)(e), F.S. 10. Section 480.047(1)(f), F.S. Licensee Applicant 11. Section 480.047(1)(g), F.S. Licensee Applicant 12. Failure to respond to continuing education audit 13. Any violation of Rule 64B7-26.010, F.A.C.	Unless an offense is specifically set forth in this subsection \$250 fine Reprimand, \$500 fine \$2,500 fine and revocation \$100 fine for first month and \$50 for each succeeding first month or part thereof and reprimand Revocation \$100 fine for first month and \$50 for each succeeding month or part thereof and reprimand Revocation \$1,000 fine and suspension \$1,000 fine Denial of licensure Revocation \$1,000 fine and probation Denial of licensure \$1,000 fine and probation Denial of licensure \$500 fine and suspension \$2,500 fine and revocation	\$250 fine and probation Revocation \$1,000 fine and suspension for minimum of 2 years Revocation Denial of licensure and prohibition on reapplication for 2-5 years \$1,000 fine and suspension Denial of licensure and prohibition on reapplication for 2-5 years \$1,000 fine and revocation Denial of licensure and prohibition on reapplication for 2-5 years \$500 fine and revocation	Revocation Revocation Revocation

VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(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 conditions	Suspension until compliant with program and up to five (5) years probation with conditions, or revocation, and up to \$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;

64B7-30.002 Disciplinary Guidelines.

(continued)

(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.

Rulemaking Authority 456.072(2), 456.079(1), (3), 480.035(7) FS. Law Implemented 456.072(2), 456.079(1), (3), 480.041, 480.043, 480.046, 480.047 FS. History—New 3-26-87, Formerly 21L-30.002, Amended 9-30-93, 12-12-93, 8-16-94, 10-1-95, 2-5-96, 5-12-96, 5-29-97, Formerly 61G11-30.002, Amended 2-18-98, 11-4-98, 1-26-00, 10-7-02, 10-12-03, 12-13-05, 5-19-13, 12-2-14.



64B7-30.004 Citations.

Only obsolete material was removed in 2018.

(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)(m), 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)(n), 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., or operating a massage establishment with a delinquent establishment license in violation of Section 480.047(1)(b), F.S., when the license has become

delinquent automatically for failure to renew, so long as the license is reactivated within 90 days of becoming delinquent, shall result in a penalty of \$250.00. Practice for more than 90 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.

(l) 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.

Rulemaking Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History—New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98, 7-18-99, 7-27-00, 10-12-03, 8-9-04, 5-1-07, 8-11-10, 6-7-16, 4-16-18.

64B7-30.005 Mediation.

Only change was to remove obsolete material.

Pursuant to Section 456.078, F.S., the Board designates first time violations of the following as appropriate for mediation:

- (1) Violation of Section 480.0465, F.S.: failure to include license number in an advertisement.
- (2) Violation of Section 480.047(1)(a) or Section 480.046(1)(f) or (k), F.S.: practicing or allowing another person to practice on a delinquent license for 60 days or less.
- (3) Violation of Section 480.046(1)(n), F.S., if the violation did not present an immediate threat to public health.
- (4) Violation of Section 480.046(1)(o), F.S.: practicing at an establishment with a license delinquent 60 days or less.
- (5) Violation of Section 456.072(1)(i), F.S.: failure to report a licensee known to be in violation.

(6) Violation of Section 456.072(1)(k), F.S.: failure to perform a legal obligation.

(7) Violation of Section 456.072(1)(u), F.S.: failure to comply with Sections 381.026 and 381.0261, F.S.

(8) Violation of Section 456.072(1)(x), F.S.: failure to report convictions to the Board.

(9) Violation of Rule 64B7-28.008, F.A.C.: failure to display a license or certificate.

(10) Violation of Rule 64B7-26.003(4), F.A.C.: failure to maintain insurance coverage.

(11) Violation of Section 456.035(1), F.S.: failure to notify change of address.

(12) Violation of Section 456.072(1)(t), F.S.: failure to properly identify licensee.

Rulemaking Authority 456.078 FS. Law Implemented 456.078 FS. History—New 1-2-95, Amended 4-21-97, Formerly 61G11-30.005, Amended 12-19-04, 5-15-13, 4-12-16, 4-16-18.

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

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

Rulemaking Authority 120.695, 456.073(3), 480.035(7) FS. Law Implemented 120.695, 456.073(3) FS. History—New 2-5-96, Formerly 61G11-30.006, Amended 9-14-98, 10-12-03, 12-19-04, 12-31-17.

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.

Rulemaking Authority 456.073(4) FS. Law Implemented 456.073(4) FS. History—New 1-26-00.

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.

64B7-30.008 Probationary Conditions and Definitions.

(continued)

(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.

Rulemaking Authority 456.072(3), 480.035(7), 480.046 FS. Law Implemented 456.072(3), 480.046 FS. History—New 11-28-02.

REFERENCES

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