

**Agriculture Industry Impact**

The Board does not believe that the proposed amendments will have any impact on the agriculture industry of this State.

**Regulatory Flexibility Analysis**

Since licensed master plumbers are individually licensed by the Board, they may be considered "small businesses" under the Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq.

The proposed amendments impose the same costs on small businesses as on all businesses as discussed in the Economic Impact statement above. The Board does not believe that licensed master plumbers will need to employ any professional services to comply with the proposed amendments. The proposed amendments do not impose any recordkeeping or compliance requirements but do impose reporting requirements, by requiring licensed master plumbers to submit documentary proof of his or her ownership interest when he or she seeks to act as a bona fide representative, as well as requiring master plumbers seeking to act as a new bona fide representative to report to the Board the previous licensed master plumber who served as the bona fide representative for the plumber contractor.

As the reporting requirements contained in the proposed amendments are necessary to ensure that a licensed master plumber's ownership claims in a plumbing contractor are valid, and monitor compliance with N.J.A.C. 13:32-3.3(a)5, the Board believes that the rules must be uniformly applied to all licensed master plumbers and no exemptions are provided based on the size of a licensed master plumber's business.

**Smart Growth Impact**

The Board does not anticipate that the proposed amendments will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

**Housing Affordability Impact Analysis**

The proposed amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rule would evoke a change in the average costs associated with housing because the proposed amendments concern the submission of documentary proof when a licensed master plumber seeks to act as a bona fide representative, and requiring master plumbers seeking to act as a new bona fide representative to report to the Board the previous licensed master plumber who served as the bona fide representative for the plumber contractor.

**Smart Growth Development Impact Analysis**

The proposed amendments will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rule would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern the submission of documentary proof when a licensed master plumber seeks to act as a bona fide representative, and requiring master plumbers seeking to act as a new bona fide representative to report to the Board the previous licensed master plumber who served as the bona fide representative for the plumber contractor.

**Full text** of the proposal follows (additions indicated in bold **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. IDENTIFICATION OF LICENSEES; BONA FIDE REPRESENTATIVE; SUPERVISION

13:32-3.2 Bona fide representative; reporting responsibilities

(a) A licensed master plumber seeking to act as a bona fide representative for any firm, partnership, corporation, or other legal entity shall comply with the following within 30 days of assuming the role of a bona fide representative:

1. (No change.)

[2. Attest to the bona fide representative's ownership interest in the plumbing contractor as follows:

i. If a licensed master plumber claims to hold 10 percent or more but less than 50 percent of the issued and outstanding stock or capital of the plumbing contractor, the licensed master plumber shall provide the Board with a written affidavit which states the percentage of outstanding shares held by the licensed master plumber. The affidavit shall be executed by

the corporate secretary or other appropriate representative of the plumbing contractor;

ii. If a licensed master plumber claims to hold 50 percent or more of the issued and outstanding stock or capital of the plumbing contractor, the licensed master plumber shall provide a written affidavit which states the percentage of outstanding shares held by the licensed master plumber upon a request by the Board. The affidavit shall be executed by the corporate secretary or other appropriate representative of the plumbing contractor;]

**2. Provide the Board documentary proof of his or her ownership interest in the business;**

3. Provide to the Board proof that the plumbing contractor has consented that the bona fide representative will act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Board; [and]

4. Provide to the Board the acceptance of liability by the plumbing contractor for any monetary penalty, monies to be paid for restoration to consumers of fees paid for services or for delays suffered by consumers and costs assessed against the bona fide representative while acting within the scope of his or her employment on behalf of the plumbing contractor. Such acceptance of liability shall be in writing and on a form provided by the Board[.]; and

**5. Provide the Board with the name of the licensed master plumber who previously acted as the bona fide representative for the plumbing contractor, if any.**

(b)-(d) (No change.)

(a)

**DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY BOARD OF MASSAGE AND  
BODYWORK THERAPY  
NEW JERSEY BOARD OF NURSING  
Board of Massage and Bodywork Therapy Rules  
Proposed New Rules: N.J.A.C. 13:37A  
Proposed Repeals: N.J.A.C. 13:37-16**

Authorized By: New Jersey Board of Massage and Bodywork Therapy and New Jersey Board of Nursing, George Hebert, Executive Director.

Authority: N.J.S.A. 45:1-32 and 45:11-67, and P.L. 2007, c. 337.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-225.

Submit written comments by January 6, 2012 to:

George Hebert, Executive Director  
New Jersey Board of Massage and Bodywork Therapy  
Post Office Box 45010  
124 Halsey Street  
Newark, NJ 07101

The agency proposal follows:

**Summary**

P.L. 2007, c. 337, the Massage and Bodywork Therapist Licensing Act (the Act) (N.J.S.A. 45:11-53 through 79) was approved on January 13, 2008. Provisions in the Act creating the New Jersey Board of Massage and Bodywork Therapy (the Board) became effective on that date. The remainder of P.L. 2007, c. 337 will become effective upon the Board's adoption of rules governing the practice of massage and bodywork therapists. The Board is proposing new rules that provide for the licensure and regulation of massage and bodywork therapists and the registration of individuals and entities that employ massage and bodywork therapists.

Existing N.J.A.C. 13:37-16 contains rules providing for the certification and regulation of massage, bodywork, and somatic therapists by the Massage, Bodywork, and Somatic Therapy Examining Committee, under the auspices of the New Jersey Board of Nursing. Pursuant to P.L. 2007, c. 337, the Massage, Bodywork and Somatic Therapy Examining

Committee will cease to exist upon adoption of rules proposed by the Board. The New Jersey Board of Nursing proposes to repeal N.J.A.C. 13:37-16, so that those rules will be repealed upon adoption of the proposed new Board rules. The majority of the rules proposed for repeal are proposed as new rules by the Board. Many of the changes in the proposed new rules are required by P.L. 2007, c. 337. These include requiring mandatory licensing for individuals practicing massage and bodywork, removing reference to "somatic therapy," permitting licensees to provide treatments, creating alternative education requirements for individuals currently practicing massage and bodywork therapy, permitting individuals who are currently certified as massage, bodywork, and somatic therapists to obtain licensure and requiring massage and bodywork businesses to register with the Board. The Board has also made some changes to the rules that are not required by P.L. 2007, c. 337. The proposed new rules require applicants for licensure to hold certification in Firstaid and the use of an automated external defibrillator, recognize the Massage and Bodywork Licensing Examination as a licensing examination, change the breakdown of the 500 hours of education required for licensure and require that at least two hours of continuing education be in ethics. The Board has removed requirements that applicants for licensure submit affidavits of good moral character. The Board believes that these affidavits did not establish an applicant's character and were unnecessary.

The following is a summary of N.J.A.C. 13:37A. Proposed new N.J.A.C. 13:37A-1.1 sets forth the purpose and scope of the rules and the individuals to whom the proposed new rules do not apply. N.J.A.C. 13:37A-1.2 provides definitions for terms used throughout the chapter. The definition of "massage and bodywork therapies" indicates that only those therapies that are offered to the public are subject to the requirements of these rules. It also recognizes that structured touch of soft tissues that affect energy fields of the body is part of massage and bodywork therapies.

Subchapter 2 sets forth standards for licensing massage and bodywork therapists. Proposed new N.J.A.C. 13:37A-2.1 establishes requirements for obtaining a license. An applicant can qualify for a license either by successfully passing an examination from the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Asian Bodywork Therapy examination, or the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination, or by completing at least 500 hours of education in massage and bodywork therapy. The proposed new rule sets forth that one credit of a college or university course will equal 15 hours of course study. The proposed new rule sets forth standards for the accreditation or approval of education courses. Applicants are also required to hold certification in Heartsaver CPR, Firstaid and the use of an automated external defibrillator or substantially similar certification.

Proposed new N.J.A.C. 13:37A-2.2 establishes standards for issuing licenses to applicants who are licensed in another state. The educational requirements in the other state must be substantially similar to those in New Jersey. An applicant is required to submit verification of licensure or certification in every other state in which he or she was ever licensed or certified.

Proposed new N.J.A.C. 13:37A-2.3 sets forth renewal requirements for licensees. An applicant for license renewal is required to attest that he or she has completed the continuing education requirements and is currently certified in Heartsaver CPR and use of an automated external defibrillator (AED) or has a substantially similar certification. A licensee who fails to renew his or her license by the expiration date will have 30 days to submit a late renewal. After this 30-day period, a licensee who has not renewed his or her license will be administratively suspended. A person seeking to renew a license within five years of being suspended may do so by submitting a reinstatement application to the Board. Such an applicant for renewal must, among other things, submit payment of the past due renewal fees and a reinstatement fee, and proof that he or she has completed the continuing education requirements from every biennial renewal period during which he or she was suspended. A person seeking reinstatement more than five years after being administratively suspended is required to, among other things, successfully complete a course designed to prepare a person to pass an NCBTMB examination, the NCCAOM Asian Bodywork examination or the FSMTB Massage and Bodywork Licensing examination, or take and pass one of these examinations. The rule permits licensees to renew as inactive. Licensees on inactive status are prohibited from practicing massage and bodywork

therapy. An inactive licensee who seeks to return to active status must submit, among other things, proof that he or she has completed the continuing education required for every biennial period during which the applicant was on inactive status and is currently certified in Heartsaver CPR and use of an automated external defibrillator (AED) or has a substantially similar certification.

Proposed new N.J.A.C. 13:37A-2.4 provides that the Board will issue a license to any individual who is certified by the Massage, Bodywork, and Somatic Therapy Examining Committee on the effective date of the new rules.

Proposed new N.J.A.C. 13:37A-2.5 allows individuals practicing as massage and bodywork therapists prior to the adoption of this new rule to obtain a license without passing a licensing examination or completing all of the education required of non-practicing applicants. For 360 days from the effective date of the new rule, a person who has practiced full-time for at least two years, or part-time for at least five years, can obtain a license if he or she demonstrates that he or she has completed 200 hours of education in massage and bodywork therapy. The rule sets forth the topics that must be covered in these 200 hours of education and accreditation standards for the schools at which the 200 hours were completed. Applicants are also required to hold certification in Heartsaver CPR, Firstaid, and the use of an automated external defibrillator, or substantially similar certification and to complete a form authorizing a criminal history background check.

Proposed new Subchapter 3 sets forth requirements for professional practice. Proposed new N.J.A.C. 13:37A-3.1 sets forth the scope of practice for licensees. A licensee is limited to practicing those methods of massage and bodywork therapy that he or she learned or developed. Licensees are prohibited from performing vaginal or penile massages or animal therapy; applying electrical current to the body; or diagnosing illness, disease, impairment, or disability. These prohibitions do not include colonic irrigations, prostate massages, decongestive therapy, manual lymph drainage and ultrasound therapy, which are prohibited under N.J.A.C. 13:37-16.7. These procedures were prohibited because the definition of "massage, bodywork and somatic therapies" in the original version of N.J.S.A. 45:11-55 prohibited certified massage, bodywork and somatic therapists from providing treatments. This prohibition on treatments was removed by P.L. 2007, c. 337 and the prohibited procedures, all of which constitute treatments, need no longer be prohibited.

Proposed new N.J.A.C. 13:37A-3.2 establishes standards to prevent the spread of infections. The rule requires licensees to wash hands and any skin that comes in contact with clients before and after massage and bodywork therapy sessions. It sets standards for washing linens and disinfecting equipment and tools used during therapy sessions. The proposed new rule also establishes procedures to ensure that lubricants are dealt with in a sanitary manner and requires that licensees repair holes and tears in treatment surfaces. Proposed new N.J.A.C. 13:37A-3.3 sets forth titles that licensees are permitted to use and prohibited titles for individuals who are not licensed by the Board.

Proposed new rule N.J.A.C. 13:37A-3.4 requires that licensees have their license visible while providing massage and bodywork services. Proposed new N.J.A.C. 13:37A-3.5 addresses sexual misconduct. The rule prohibits licensees from engaging in sexual contact with a client while a client-therapist relationship is ongoing. They are also prohibited from seeking sexual contact with a client or with any person in exchange for professional services, or from engaging in sexual harassment inside or outside of the professional setting. The rule does not prevent a licensee from rendering massage services to a spouse, provided such services are consistent with accepted standards and are not used to exploit the spouse.

Proposed new N.J.A.C. 13:37A-3.6 requires licensees to notify the Board of a change in address or legal name. Proposed new N.J.A.C. 13:37A-3.7 requires licensees to have clients read and sign a patient acknowledgement form.

Proposed new Subchapter 4 deals with continuing education requirements. Proposed new N.J.A.C. 13:37A-4.1 requires licensees to complete 20 credit hours of continuing education, including two credit hours in ethics, every biennial period. Licensees are limited to completing six credit hours through courses presented on-line or through DVDs. This limitation is imposed because the Board believes that the hands-on nature of massage and bodywork therapy necessitates that the majority of continuing education courses be presented in a setting that can facilitate hands-on demonstrations of massage and bodywork techniques. A licensee who is licensed in the second year of a biennial renewal period

will be required to complete half of the continuing education requirements. A licensee who completes more than the required 20 credit hours in one biennial period is permitted to carry up to 18 credit hours into the succeeding biennial period. Proposed new N.J.A.C. 13:37A-4.2 sets forth how licensees may obtain continuing education hours. N.J.S.A. 45:11-72 requires the Board to approve continuing education programs. The Board has met this requirement by recognizing accrediting entities that approve continuing education programs.

Proposed new N.J.A.C. 13:37A-4.3 details how the Board will perform random audits of licensees to ensure compliance with continuing education requirements. The proposed new rule also requires licensees to maintain records of the continuing education credits hours they have completed for four years. Proposed new N.J.A.C. 13:37A-4.4 permits the Board to waive continuing education requirements for reasons of hardship. The proposed new rule details how a licensee may apply to the Board for such a waiver. Under proposed new N.J.A.C. 13:37A-4.5, the Board is permitted to require licensees to complete additional continuing education credit hours as part of discipline or when a licensee has not met the continuing education requirements.

Proposed new Subchapter 5 sets forth permitted and prohibited business practices. Proposed new N.J.A.C. 13:37A-5.1 deals with advertising. The rule sets forth the information that must be provided in licensee advertising and those claims and statements that cannot be made in advertisements. The rule also sets forth recordkeeping requirements for licensees who have engaged in advertising.

Proposed new rule N.J.A.C. 13:37A-5.2 requires licensees to maintain client records. Such records must be maintained for seven years from the date of the last entry. Existing N.J.A.C. 13:37-16.14 requires that records include the fees charged. The Board has determined that this information is not relevant to the services provided to a patient and will not require patient records to include fees. Existing N.J.A.C. 13:37-16.14 also sets forth standards for maintaining records on computers. The Board has reviewed these standards and believes that they are not necessary to protect the confidentiality and integrity of client records maintained on a computer. The Board will not impose specific requirements for licensees who maintain records on a computer. Proposed new N.J.A.C. 13:37A-5.3 requires licensees to provide records to a client. A licensee is permitted to charge a fee for reproduction of records. The rule also requires licensees to maintain the confidentiality of client records and sets forth to whom client records may be released.

Proposed new Subchapter 6 deals with the registration of businesses that offer massage and bodywork therapies. Proposed new N.J.A.C. 13:37A-6.1 requires registration of individuals or entities that employ licensees to provide massage and bodywork therapies. Schools and health care institutions are exempt from this registration requirement. The rule sets forth the information that must be submitted to the Board in order to register. Registration must be renewed every two years. Proposed new N.J.A.C. 13:37A-6.2 requires the Board to suspend or revoke registration if an individual or entity submitted false information in its registration application or failed to demonstrate that every employee performing massage services is licensed by the Board.

Proposed new Subchapter 7 sets forth the fees the Board will charge for the services it provides.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed new rules and repeals will have a positive impact on consumers who are the recipients of massage and bodywork therapies and on the massage and bodywork therapy industry. Requiring all massage and bodywork therapists to be licensed will ensure that every therapist is properly prepared to provide safe and effective massage and bodywork therapy and that any therapist who engages in inappropriate behavior is subject to Board discipline. Additionally, the new rules will provide consumers with the ability to direct questions, concerns, or problems that may arise with any massage and bodywork therapists to the Board. The rules also require licensees to adhere to certain sanitary standards and universal precautions that will give assurance to clients that they are receiving massage and bodywork services in a safe environment.

#### **Economic Impact**

The proposed new rules impose costs on applicants for licenses as massage and bodywork therapists and licensees. N.J.A.C. 13:37A-2.1, 2.2, and 2.5 set forth requirements for applicants for licensure. These rules require applicants to either obtain an education in massage and bodywork therapy or successfully pass a licensing examination. The cost of completing an education can range from \$5,000 to over \$15,000. There are three examinations for licensure; they cost \$195.00, \$225.00, or \$400.00. The education and examination costs are outweighed by the benefits of ensuring that applicants are adequately prepared to safely and effectively practice massage and bodywork therapy. N.J.A.C. 13:37A-2.3 requires licensees to renew licensure biennially with the Board and pay the fee set forth in N.J.A.C. 13:37A-7.1. These fees are charged in order for the Board to be self-funding and in compliance with N.J.S.A. 45:1-3.2.

N.J.A.C. 13:37A-3.2 sets forth infection control precaution requirements. The cost of complying with these requirements will be borne by licensees. The costs of complying with these requirements consist mainly of buying cleaning and disinfecting products. These costs are nominal and are outweighed by the benefit of ensuring that licensees are properly cleaning their hands and the equipment they use. N.J.A.C. 13:37A-4.1 requires licensees to complete continuing education courses every biennial renewal period. The costs of these courses are set by the sponsors who offer them. The Board believes that the costs licensees incur in completing these courses is outweighed by the benefits licensees, and the consumers who receive massage and bodywork therapy services from these licensees, receive from continuously updating their competency through education. Licensees will also incur costs in maintaining records pursuant to proposed new N.J.A.C. 13:37A-5.2. These costs are outweighed by the benefit of ensuring that the services provided to patients are documented by licensees.

#### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed new rules.

#### **Jobs Impact**

The Board anticipates that the initial and continuing education requirements in the proposed new rules may create more jobs for instructors in massage and bodywork education programs and for continuing education instructors. The Board does not anticipate that any other section of the proposed new rules will increase or decrease the number of jobs in the State.

#### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry in the State.

#### **Regulatory Flexibility Analysis**

Since massage and bodywork therapists will be individually licensed by the Board, they may be considered "small businesses" under the Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq.

The costs imposed on small businesses by the proposed new rules will be the same costs that are imposed on all licensees as set forth in the Economic Impact statement above. The Board does not believe that licensees will need to employ any professional services to comply with the proposed new rules. The proposed new rules impose compliance, reporting and recordkeeping requirements as detailed in the Summary above.

As the compliance, reporting and recordkeeping requirements contained in the proposed new rules are necessary to adequately regulate massage and bodywork therapists and protect consumers who use their services, the Board believes that the rules must be uniformly applied to all licensees and no exemptions are provided based on the size of the licensee's business.

#### **Smart Growth Impact**

The Board does not anticipate that the proposed new rules or repeals will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

#### **Housing Affordability Impact Analysis**

The proposed new rules and repeals will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with

housing because the proposed rules concern the licensure and regulation of massage and bodywork therapists.

#### Smart Growth Development Impact Analysis

The proposed new rules and repeals will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed rules concern the licensure and regulation of massage and bodywork therapists.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:37-16.

**Full text** of the proposed new rules follows:

### CHAPTER 37A NEW JERSEY BOARD OF MASSAGE AND BODYWORK THERAPY RULES

#### SUBCHAPTER 1. PURPOSE AND DEFINITIONS

##### 13:37A-1.1 Purpose

(a) The purpose of this chapter is to implement the provisions of P.L. 2007, c. 337 (N.J.S.A. 45:11-53 et seq.), which created the New Jersey Board of Massage and Bodywork Therapy.

(b) This chapter shall apply to all applicants who seek licensure by the Board as a massage and bodywork therapist and to all persons who are licensed by the Board as massage and bodywork therapists in this State.

(c) This chapter does not apply to any person who is:

1. Licensed to practice in this State under any other law and is practicing or using titles consistent with the practice for which he or she is licensed;

2. A student enrolled in a program of massage and bodywork therapies, which meets the requirements of N.J.A.C. 13:37A-2.1 when that student is performing massage and bodywork therapies that are necessary to his or her course of study;

3. Licensed, certified, or registered to practice massage and bodywork therapy in another state or the District of Columbia if that person is performing massage and bodywork therapy in this State for 45 days or less in a calendar year and no more than 30 days in any 60 consecutive-day period;

4. Manipulating the soft tissue of the human body contained on hands, feet, or ears, as long as the client receiving such services does not remove any clothing other than shoes or socks;

5. A teacher who is demonstrating massage and bodywork techniques while teaching a class or workshop. If such a teacher is a resident of a state or possession of the United States, which requires a license in order to practice massage and bodywork therapies, or is a resident of the District of Columbia, he or she shall be licensed in that state or possession or in the District of Columbia; and

6. Using touch, words, and directed movement to deepen awareness of existing patterns of movement in the body, or to suggest new possibilities of movement provided that these services are not designated or implied to be massage and bodywork therapy and the client receiving such services is fully clothed.

##### 13:37A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

“Act” means the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq. and 45:11-68 et seq.

“Board” means the New Jersey Board of Massage and Bodywork Therapy.

“FSMTB” means the Federation of State Massage Therapy Boards.

“Full-time practice” means a person has provided a minimum of 500 hours of massage and bodywork therapies to clients and/or students during a year.

“License” means the document, issued by the Board, which authorizes a person to practice massage and bodywork therapies pursuant to the Act.

“Licensee” means any person who holds a license from the Board as a massage and bodywork therapist.

“Massage and bodywork therapies” or “massage and bodywork” means systems of activity of structured touch offered or provided to the public that includes holding, applying pressure, positioning, and

mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory, and palpating skills to assess the body for purposes of applying therapeutic massage or bodywork principles. Such application may include the use of therapies such as heliotherapy or hydrotherapy, the use of moist, hot, and cold external applications, explaining and describing myofascial movement, self-care, and stress management as it relates to massage and bodywork therapies. Massage and bodywork therapy practices are designed to affect the soft tissue of the body, including practices of structured touch of the soft tissues that affect energy fields of the body, for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment, or disability.

“NCBTMB” means the National Certification Board for Therapeutic Massage and Bodywork.

“NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.

“Part-time practice” means a person has provided a minimum of 250 hours of massage and bodywork therapies to clients and/or students during a year.

#### SUBCHAPTER 2. LICENSURE

##### 13:37A-2.1 Application for licensure

(a) An applicant for licensure shall qualify for licensure by either:

1. Successfully completing a course of study of at least 500 hours in massage and bodywork therapies; or

2. Successfully passing either:

i. An examination offered by NCBTMB;

ii. The NCCAOM Asian Bodywork Therapy examination; or

iii. The Massage and Bodywork Licensing Examination (MBLEx) offered by the FSMTB.

(b) An individual who applies for a license under (a)1 above shall submit to the Board:

1. A completed application;

2. An official transcript, which indicates that the applicant has completed an associate degree in massage and bodywork or a course of study outlined in (d) below from a school accredited or approved by:

i. The New Jersey Department of Education;

ii. The New Jersey Department of Labor and Workforce Development;

iii. The New Jersey Commission on Higher Education; or

iv. An agency of another state, which substantially meets the requirements of the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development or the New Jersey Commission on Higher Education;

3. A completed Criminal History Certification of Authorization form;

4. Proof that the applicant has current certification in Heartsaver CPR, Firstaid, and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.; and

5. The application fee set forth in N.J.A.C. 13:37A-7.1.

(c) An individual who applies for a license under (a)2 above shall submit to the Board:

1. A completed application;

2. Proof that the applicant has successfully passed the written examination offered by the FSMTB, NCBTMB, or NCCAOM;

3. A completed Criminal History Certification of Authorization form;

4. Proof that the applicant has current certification in Heartsaver CPR, Firstaid, and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.; and

5. The application fee set forth in N.J.A.C. 13:37A-7.1.

(d) A course of study in massage and bodywork therapy of at least 500 hours shall include:

1. At least 90 hours of anatomy/physiology/pathophysiology;

2. Ethics and law;

3. Theory and practice (in-class instruction as to massage and bodywork theory and modalities and in-class demonstration and practice of massage and bodywork modalities);

4. Electives directly related to the practice of massage and bodywork therapy; and

5. At least 100 hours of clinical practice that is supervised by a faculty member who is present on-site while services are being performed and is either a licensed massage and bodywork therapist or is legally authorized to perform massage and bodywork in the state in which the school exists.

(e) For purposes of (d) above, one credit in a course taken in a college or university shall constitute 15 hours of course study.

(f) Hours completed during one area of a course of study in massage and bodywork therapy shall not be counted towards completion of another area of that course. For example, one hour spent performing massage, bodywork and somatic therapy that is completed as part of theory and practice pursuant to (d)3 above shall not be counted towards the 100 hours of clinical practice required by (d)5 above.

(g) The Board shall issue a license to an applicant who qualifies pursuant to (a)1 or 2 above if the applicant is not disqualified for licensure pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

#### 13:37A-2.2 License without examination based on licensure in another state

(a) A person who is licensed or certified in another state as a massage and bodywork therapist shall be eligible for licensure in this State if the educational requirements of the state in which he or she is licensed or certified are substantially similar to the educational requirements of this State.

(b) An applicant for license who is licensed or certified in another state shall submit to the Board:

1. A completed application form;
2. Written or electronic verification of status of licensure or certification from every state, territory of the United States, or the District of Columbia, in which the applicant was ever licensed or certified. The verification shall either be forwarded directly to the Board from the applicable state board or committee, if written, or, if electronic, issued by the applicable state board or committee;
3. A completed Criminal History Certification of Authorization form;
4. Proof that the applicant has current certification in Heartsaver CPR, Firstaid, and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.; and

5. The application fee set forth in N.J.A.C. 13:37A-7.1.

(c) The Board shall determine if the educational requirements of the state in which the applicant is licensed or certified are substantially similar to the educational requirements in this State, and whether the applicant meets the other requirements for license set forth in (b) above. If the Board finds that the educational requirements are substantially similar and that the applicant meets the requirements for license set forth in (b) above, it shall issue a license to the applicant if the applicant is not disqualified for licensure pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

#### 13:37A-2.3 Renewal of license

(a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant shall attest that the continuing education requirements of N.J.A.C. 13:37A-4.1 have been completed during the prior biennial period and that the applicant is currently certified in Heartsaver CPR and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.

(b) The Board shall send a notice of renewal to each licensee at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for any unlicensed practice during the period following the licensure expiration, not to exceed the number of days short of 60 before the renewal was issued.

(c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:37A-7.1 prior to the date of expiration of the license. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be administratively suspended without a hearing.

(d) Individuals who continue to practice or hold themselves out as State-licensed massage and bodywork therapists after being suspended shall be deemed to have violated N.J.S.A. 45:11-73, even if no notice of suspension had been provided to the person.

(e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Board:

1. A completed reinstatement application;
2. Payment of the past delinquent renewal fees as set forth in N.J.A.C. 13:37A-7.1;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:37A-7.1;
4. A certification verifying completion of the continuing education credits for each biennial period that the applicant was suspended; and
5. An affidavit of employment listing each job held during the period of suspension that includes the names, addresses, and telephone numbers of each employer.

(f) A person seeking reinstatement after more than five years following the suspension of a license shall satisfy the requirements of (e) above and for a person who obtained his or her initial license pursuant to:

1. N.J.A.C. 13:37A-2.1(a)1 or 2.5, shall successfully complete a course designed to prepare a person to pass the FSTMB, NCBTMB, or NCCAOM examination from a school that meets the requirements of N.J.A.C. 13:37A-2.1(b)2; or
2. N.J.A.C. 13:37A-2.1(a)2, shall retake and successfully pass the NCBTMB or NCCAOM examination.

(g) Renewal applications for all licenses shall provide the licensee with the option of either active or inactive renewal. Licensees electing to renew as inactive shall not practice or hold themselves out to the public as State-licensed massage and bodywork therapists.

(h) Upon application to the Board, the Board may permit a licensee who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required per biennial period for each biennial period that the applicant is on inactive status and holds current certification in Heartsaver CPR, Firstaid, and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.

#### 13:37A-2.4 Licensure for individuals certified by the Massage, Bodywork, and Somatic Therapy Examining Committee

An individual who was certified as a massage, bodywork, and somatic therapist by the Massage, Bodywork, and Somatic Therapy Examining Committee on (the effective date of this rule), will be issued a license as a massage and bodywork therapist by the Board.

#### 13:37A-2.5 License without education or examination

(a) Prior to (360 days from the effective date of this rule), a person may apply for license without satisfying the education or examination requirements of N.J.A.C. 13:37A-2.1, if the person has completed a minimum of 200 hours of education and training as required in (b) below and the person has:

1. Practiced full-time as a massage and bodywork therapist for at least two years prior to (the effective date of this rule); or
2. Practiced part-time as a massage and bodywork therapist for five years prior to (the effective date of this rule).

(b) The 200 hours of education and training required pursuant to (a) above shall consist of anatomy and physiology, theory and practice (in-class instruction as to massage and bodywork theory and modalities and in-class demonstration and practice of massage and bodywork modalities), and ethics, of which at least 150 hours shall be in theory and practice.

(c) The 200 hours of education and training required pursuant to (a) above shall be taken in a massage and bodywork training program that is accredited or approved by:

1. The New Jersey Department of Education;
2. The New Jersey Department of Labor and Workforce Development;
3. The New Jersey Commission on Higher Education; or
4. An agency of another state or a program, which substantially meets the approval requirements of the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, or the New Jersey Commission on Higher Education.

(d) An applicant shall submit to the Board a completed application, which shall include:

1. A statement that the applicant has worked full-time for the past two years or part-time for the past five years and indicating what methods of massage and bodywork therapy the applicant practiced;

2. Evidence that the applicant has completed 200 hours of education or training in massage and bodywork therapies consistent with (b) and (c) above;

3. A completed Criminal History Certification of Authorization form;

4. Proof that the applicant has current certification in Heartsaver CPR, Firstaid, and use of an automated external defibrillator (AED) from courses approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, or EMP International Inc.; and

5. The application fee set forth in N.J.A.C. 13:37A-7.1.

(e) The Board shall issue a license to an applicant who qualifies pursuant to (a), (b), (c), and (d) above if the applicant is not disqualified for licensure pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

### SUBCHAPTER 3. PROFESSIONAL PRACTICE

#### 13:37A-3.1 Scope of practice

(a) A licensee shall practice only those methods of massage and bodywork therapy that:

1. The licensee learned during his or her initial training as outlined in N.J.A.C. 13:37A-2.1 or 2.5;

2. The licensee learned during a course offered by:

i. A provider approved by the NCBTMB, NCCAOM, American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), FSMTB, American Nurse Credentialing Center (ANCC), American Polarity Therapy Association (APTA), American Physical Therapy Association (APTA), American Medical Association (AMA), International Association of Structural Integrators (IASI), Rolf Foundation, a state board of massage, a state board of massage and bodywork, a state board of physical therapy, or a state board of chiropractic;

ii. A school that is approved by an agency recognized by the United States Department of Education; or

iii. A school that is accredited or approved by the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, the New Jersey Commission on Higher Education, or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, or the New Jersey Commission on Higher Education; or

3. The licensee developed and which are taught in a course offered by a provider approved by the NCBTMB, NCCAOM, AMTA, ABMP, FSMTB, ANCC, American Polarity Therapy Association (APTA), American Physical Therapy Association (APTA), AMA, IASI, Rolf Foundation, a state board of massage, a state board of massage and bodywork, a state board of physical therapy, or a state board of chiropractic.

(b) Notwithstanding any training received as permitted by (a) above, a licensee shall not perform:

1. Vaginal or penile massages;

2. Animal therapies prohibited by the Veterinary Medical Act, N.J.S.A. 45:16-1 et seq.;

3. Any application of electrical current to the body (Transcutaneous Electronic Nerve Stimulation, TENS, machine); and

4. Diagnosis of illness, disease, impairment, or disability.

#### 13:37A-3.2 Infection control precautions

(a) Licensees shall wash hands and any part of his or her body that comes in contact with a client's body with liquid disinfectant soap and water, or hand sanitizer, in the following instances:

1. Before and after providing massage and bodywork therapies for each client; or

2. Immediately upon contact with blood, body fluids, secretions, or any item that has touched a patient or that has been contaminated with blood, bodily fluids, or secretions, not including sweat.

(b) If hand washing facilities are not available, licensees shall disinfect their hands with a bactericidal agent.

(c) Clean linens and drapes or disposable coverings shall be used for each client.

(d) Soiled disposable items shall be discarded into a container lined with a plastic bag, securely fastened, and disposed of daily into the regular trash disposal, unless otherwise specified by State and local health regulations.

(e) A broad spectrum anti-microbial disinfectant shall be used to disinfect:

1. Any equipment that comes in contact with a client, prior to the provision of massage and bodywork therapies for a client;

2. Exposed surfaces, such as counter tops, tables, and sinks on a daily basis;

3. Any implements or tools used during massage and bodywork therapy;

4. Face cradles and arm rests on all massage chairs and tables, prior to the provision of massage and bodywork therapies for a client;

5. All ice and heat pack equipment;

6. Any tool or utensil used to transfer a lubricant from one container to another or from a container to a client, which is not disposed of after use; and

7. Any portion of a lubricant pump dispenser or lubricant tube touched by the licensee during the provision of massage and bodywork therapy services.

(f) If a licensee uses massage lubricants, the licensee shall:

1. Store massage lubricants in sanitary containers;

2. Keep lubricant containers free of debris; and

3. Store lubricants according to manufacturer's recommendations and separately from cleaning supplies.

(g) If a licensee uses a massage lubricant that is contained in a pump dispenser, tube, or squeeze bottle the licensee shall, after completion of services to every client, disinfect pursuant to (e) above, any portion of the container that he or she has touched during the provision of massage and bodywork therapy services.

(h) If a licensee uses a massage lubricant that is not contained in a pump dispenser, tube, or squeeze bottle, the licensee shall, for every client, remove the lubricant from the main container with a disposable instrument or an instrument that is disinfected pursuant to (e) above after each use and place the lubricant in a separate container, which shall be discarded or disinfected pursuant to (e) above after the completion of services.

(i) Licensees shall store all single service materials and linens off the floor in shelves, containers, cabinets, or closets.

(j) Soiled linens and draping materials shall be commercially laundered or washed in a clothes washing machine, in hot water with detergent and at least one cup of bleach or an antibacterial agent, and dried on the high heat setting in a clothes dryer.

(k) Clean linens and dirty linens shall be stored separately.

(l) Clean linens and trash shall be stored separately.

(m) When a licensee is providing massage and bodywork therapy in a temporary location, such as a sporting event, the licensee shall sanitize all equipment in accordance with this section.

(n) Licensees shall maintain a clean environment in the massage and bodywork therapy establishment and shall ensure that the massage and bodywork therapy establishment is well-lit and ventilated. Licensees shall maintain the area where massage and bodywork therapy is being performed free of animals, except as permitted by law.

(o) Licensees shall provide access to a restroom for clients in the massage and bodywork therapy establishment.

(p) Licensees shall repair any holes and tears in the treatment surface so as to maintain the surface integrity of the treatment surface.

#### 13:37A-3.3 Designations for licensed persons, prohibitions on unlicensed persons

(a) An active licensee shall use the titles "licensed massage and bodywork therapist" or "licensed massage therapist" or the acronyms "LMBT" or "LMT."

(b) Unless actively licensed pursuant to the provisions of this chapter, no person or business entity shall use:

1. The titles "massage and bodywork therapist" or "licensed massage and bodywork therapist";

2. Any title or designation that includes the words "massage," "bodywork," "masseur," "masseur," "shiatsu," "acupressure,"

“acupressure,” “accu-pressure,” “nuad bo’rarn,” “amma,” “anma,” “chi nei tsang,” “tuina,” “polarity educator,” “polarity therapist,” “polarity therapy,” or “polarity practitioner;” or

3. The abbreviations “AB,” “ABT,” “BT,” “CMT,” “CMBT,” “COBT,” “LABT,” “LBT,” “LMBST,” “LMBT,” “LMT,” “LOBT,” “MBST,” “MBT,” “MP,” “MT,” “OB,” or “RPP.”

(c) Notwithstanding (b) above, an individual who is licensed or certified by another New Jersey State entity shall be permitted to use any title or abbreviation that describes a practice that the individual is permitted to engage in pursuant to his or her license or certification.

#### 13:37A-3.4 Display of license

(a) Licensees shall display their license in view of clients whenever providing massage and bodywork services in their place of business or office.

(b) Whenever licensees provide massage and bodywork services outside of their place of business or office they shall produce their licenses for clients or other members of the public upon request.

(c) A licensee shall display either the original license or a duplicate license obtained from the Board.

#### 13:37A-3.5 Sexual misconduct

(a) The purpose of this section is to identify for licensees conduct that shall be deemed sexual misconduct.

(b) As used in this section, the following terms have the following meanings:

“Client” means any person who is the recipient of massage or bodywork therapy.

“Client-therapist relationship” means a relationship between a licensee and a client in which the licensee owes a continuing duty to the client to render massage or bodywork therapy services consistent with his or her training and experience.

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes, but is not limited to, the imposition of a part of the licensee’s body upon a part of the client’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client’s body into or near the genital, anal or other opening of the other person’s body. “Sexual contact” does not include the touching of a client’s body that is necessary during the performance of a generally accepted and recognized massage and bodywork therapy procedure.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, which occurs in connection with a licensee’s activities or role as a provider of massage and bodywork therapy services that is unwelcome or offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student, or supervisee whether or not such individual is in a subordinate position to the licensee.

“Spouse” means the husband, wife, civil union partner, domestic partner or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of this definition, a long-term committed relationship means a relationship that is at least six months in duration.

(c) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless more than three months has elapsed since the last massage and bodywork therapy was rendered.

(d) A licensee shall not seek or solicit sexual contact with a client with whom he or she has a client-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a person with whom the licensee has a client-therapist relationship, unless that discussion is directly related to a proper massage

and bodywork therapy purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.

(f) A licensee shall provide privacy and therapy conditions that prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect client privacy.

(g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.

(h) A licensee shall not engage in any other activity that would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or which is for the sexual arousal, or sexual gratification, of the licensee or client or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering massage or bodywork therapy to a spouse, providing that the rendering of such massage or bodywork therapy is consistent with accepted standards of massage or bodywork therapy and that the performance of therapy is not utilized to exploit the spouse for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the licensee; or
2. The licensee is in love with or held affection for the client.

#### 13:37A-3.6 Change in address of record or name

(a) A licensee shall notify the Board in writing within 30 days of changes to:

1. The licensee’s address of record. Service to the address of record registered with the Board shall constitute effective notice pursuant to N.J.A.C. 13:45-3.2; or

2. The licensee’s legal name. Notification of a name change shall include a copy of the marriage license or a court order that authorized the legal name change.

#### 13:37A-3.7 Patient acknowledgement

Prior to providing an initial service to a client, a licensee shall have the client read and sign a patient acknowledgement form, which includes the following statement:

“Massage and bodywork therapy practices are designed to promote and maintain the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability. If I experience any pain or discomfort during this session, I will immediately inform the therapist so that the pressure and/or manipulations may be adjusted to my level of comfort. Because massage and bodywork therapy may be contraindicated due to certain medical conditions, I affirm that I have informed the therapist of all my known medical conditions and will keep the therapist updated as to any changes in my medical condition.”

### SUBCHAPTER 4. CONTINUING EDUCATION

#### 13:37A-4.1 Continuing education

(a) Upon biennial license renewal, licensees shall attest that they have completed courses of continuing education of the types and number of credit hours specified in (b), (c), (d) and (e) below and N.J.A.C. 13:37A-4.2. Falsification of any information submitted on the renewal application may require an appearance before the Board and may subject a licensee to penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 25.

(b) Each applicant for biennial license renewal shall be required to complete during the preceding biennial period 20 credit hours of continuing education related to the practice of massage and bodywork therapy, except as provided in (d) below. These 20 credit hours shall include at least two hours in ethics. Courses that are related solely to the business practices of licensees and courses in practices in which licensees are prohibited from engaging pursuant to N.J.A.C. 13:37A-3.1(b) shall not satisfy continuing education requirements.

(c) Licensees shall be limited to completing a total of six credit hours through courses presented on-line or through DVDs.

(d) A licensee who is licensed in the second year of a biennial renewal period shall be required to complete 10 credit hours of continuing education, of which at least two hours shall be in ethics.

(e) A licensee who completes more than the minimum continuing education credit hours set forth in (b) or (d) above in any biennial registration period may carry no more than 18 of the additional credit hours into a succeeding biennial period. A licensee who carries over credits into a biennial period shall complete, during that biennial period, at least two hours of ethics.

#### 13:37A-4.2 Continuing education programs

(a) A licensee may obtain continuing education credit hours from the following:

1. Successful completion of continuing education courses or programs related to the practice of massage and bodywork therapy, one credit hour for each hour of instruction. Courses and programs shall be approved by, or offered by providers approved by:

- i. NCBTMB;
- ii. NCCAOM;
- iii. The American Massage Therapy Association (AMTA);
- iv. The American Organization for Bodywork Therapies of Asia (AOBTA);
- v. The Association of Bodywork and Massage Professionals (ABMP);
- vi. The American Nurses Credentialing Center (ANCC);
- vii. The American Polarity Therapy Association (APTA);
- viii. The American Physical Therapy Association (APTA);
- ix. FMSTB;
- x. The International Association of Structural Integrators (IASI);
- xi. The American Medical Association (AMA);
- xii. The Rolf Foundation; or
- xiii. A state board of massage, massage and bodywork, physical therapy, or chiropractic;

2. Successful completion of a course, related to the practice of massage and bodywork therapy, given by a school, college, or university, one credit hour for each hour of instruction. A school, college, or university shall be:

- i. Accredited by the New Jersey Department of Education;
- ii. Approved by the New Jersey Department of Labor and Workforce Development;
- iii. Approved by the New Jersey Commission on Higher Education; or
- iv. Approved by an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, or the New Jersey Commission on Higher Education;

3. Teaching a new continuing education program related to massage and bodywork therapy that is approved pursuant to (a)1 or 2 above. As used in this paragraph, "new" means that the licensee has never taught or developed curriculum for that course or program in any educational setting; one credit hour for each hour taught;

4. Authorship of a published textbook or a chapter of a textbook directly related to the practice of massage and bodywork therapy; four credit hours for each chapter up to 20 credit hours;

5. Authorship of a published article, which has been referred through peer review, related to the practice of massage and bodywork therapy, in a medical or health related journal; four credit hours; and

6. Presenting a new seminar or lecture to professional peers, provided the seminar or lecture is at least one hour long; as used in this paragraph, "new" means that the licensee has never presented the seminar or lecture before; one credit hour for each hour of presentation.

#### 13:37A-4.3 Continuing education audits; records of continuing education

(a) The Board shall perform audits on randomly selected licensees to determine compliance with continuing education requirements.

(b) A licensee shall maintain the following documentation for a period of four years after completion of the credit hours and shall submit such documentation to the Board upon request:

1. For attendance at programs or courses: a certificate of completion from the sponsor;
2. For publication of textbook or article: the published item, including the date of publication;

3. For developing curriculum or teaching a course or program: documentation, including a copy of the curriculum, location, date, and time of course, duration of course by hour, and letter from sponsor confirming that the licensee developed or taught the course or program; and

4. For presenting a lecture or seminar: documentation including the location, date, and duration of the lecture or seminar.

#### 13:37A-4.4 Waiver of continuing education requirements

(a) The Board may waive the continuing education requirements of this subchapter on an individual basis for reasons of hardship, such as severe illness, disability, or military service.

1. A licensee seeking a waiver of the continuing education requirements shall apply to the Board in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Board with supplemental materials that support the request for waiver.

2. A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver continue(s) into the next biennial period, a licensee shall apply to the Board for the renewal of such waiver for the new biennial period.

#### 13:37A-4.5 Additional continuing education requirements

(a) The Board may direct or order a licensee to complete continuing education credit hours:

1. As part of a disciplinary or remedial measure in addition to the required 20 hours of continuing education; or

2. To correct a deficiency in the licensee's continuing education requirements.

(b) Any continuing education credit hours completed by the licensee in compliance with an order or directive from the Board as set forth in (a) above shall not be used to satisfy the minimum continuing education requirements as set forth in this subchapter.

### SUBCHAPTER 5. BUSINESS PRACTICES

#### 13:37A-5.1 Advertising and solicitation practices

(a) A licensee may provide information to the public by advertising in print or electronic media pursuant to this section.

(b) The following words and terms, when used in this subchapter shall have the following meanings:

"Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media that directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services from a licensee.

"Electronic media" means radio, telephone, television, and internet.

"Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, business cards, matchbook covers, and other similar items, documents, or comparable publications.

(c) A licensee who engages in the use of advertising that contains any of the following shall be deemed to be engaged in professional misconduct:

1. Any statement, claim, or format which is false, fraudulent, misleading, or deceptive;

2. Any promotion of a professional service for which:

- i. The licensee has not received education or training to perform; or
- ii. The licensee claims to have developed, unless the licensee developed such service and it is taught in a course offered by a provider approved by the NCBTMB, NCCAOM, American Massage Therapy Association (AMTA), or Associated Bodywork and Massage Professionals (ABMP); or

3. The communication of any fact, data, or information that may personally identify a client without that client's signed written permission obtained in advance.

(d) The Board may require a licensee to substantiate the truthfulness of any assertion or representation in an advertisement. Failure of a licensee to provide factual substantiation to support a representation or assertion when requested shall be deemed professional misconduct.

(e) All advertisements shall include:



- 1. The licensee’s first name, or first initial of the first name, and the licensee’s full last name;
- 2. The licensee’s address or telephone number; and
- 3. The terms “N.J. Lic. #” followed by the licensee’s license number.

(f) If an entity advertises under a professional name the entity must identify at least one licensee’s first name, or first initial of the first name, and the licensee’s full last name, license number and telephone or address.

(g) A video or audio tape, or other permanent recording for an internet advertisement, of every advertisement communicated by electronic media shall be retained by the licensee and shall be made available for review upon request by the Board or its designee. A copy of any advertisement appearing in the print media shall also be retained by the licensee and made available for review. The tapes and print media copies required to be retained under this subsection shall be kept for a minimum period of three years from the date of the last authorized publication or dissemination of the advertisement.

(h) Licensees who are on inactive status pursuant to N.J.A.C. 13:37A-2.3(h) shall not hold themselves out to the public as State-licensed massage and bodywork therapists.

13:37A-5.2 Recordkeeping

(a) Licensees shall make contemporaneous, permanent entries into client records that shall accurately reflect the massage and bodywork services rendered. Client records shall be maintained for a period of seven years from the date of the most recent entry. The client record shall contain, at a minimum:

- 1. Intake record;
- 2. The dates of each service;
- 3. Reasons for visits, including a physician’s prescription, if there is one;
- 4. The name of the licensee who provided services if there is more than one licensee practicing at the office;
- 5. Modalities used and areas of focus on the body; and
- 6. Any referral to another healthcare professional.

(b) A licensee may make corrections and/or additions to a client record, provided that each change is clearly identified as such, dated and initialed by the licensee.

13:37A-5.3 Client access to records; confidentiality

(a) Licensees shall provide access to client records to a client or an authorized representative in accordance with the following:

1. No later than 30 days from receipt of a written request from a client or an authorized representative, the licensee shall provide a copy of the client record, and/or billing records as may be requested;

2. The licensee may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less; and

3. If the client or a subsequent treating health care professional is unable to read the client record, because it is illegible, the licensee, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the licensee shall also provide a translation.

(b) Licensees shall maintain the confidentiality of client records, except that:

1. The licensee shall release client records as directed by a subpoena issued by the Board or the State Attorney General, or by a demand for a statement in writing under oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full client names; and

2. The licensee shall release information as required by statute or rule.

(c) Where the client has requested the release of all or a portion of a client record to a specified individual or entity, in order to protect the confidentiality of the records the licensee shall:

- 1. Secure and maintain a current written authorization, bearing the signature of the client or an authorized representative;
- 2. Assure that the scope of the release is consistent with the request;
- 3. Forward the records to the attention of the specific individual identified in the request; and
- 4. Mark the material “Confidential.”

SUBCHAPTER 6. BUSINESS REGISTRATION

13:37A-6.1 Registration of employers

(a) Pursuant to N.J.S.A. 45:11-76, an individual or entity that employs another person to engage in, or an individual or entity that employs another and advertises or holds itself out as providing, massage and bodywork therapies shall register with the Board.

(b) An individual or entity that employs another person to engage in, or an individual or entity that employs another person and advertises or holds itself out as providing, massage and bodywork services shall not be required to register with the Board if the individual or entity is:

1. A school approved by the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, or the New Jersey Commission on Higher Education; or

2. A health care institution licensed by the New Jersey Department of Health and Senior Services.

(c) An applicant for registration shall submit to the Board a completed application that includes:

1. The name and residence of the individual or the owner or operator of the entity;

2. The municipality and location of the owner or operator’s primary place of business and the location of any branches of the business;

3. A certification attesting that the individual or entity will employ only massage and bodywork therapists licensed by the Board to provide massage and bodywork services;

4. The criminal history background of the individual or the owner or operator of the entity; and

5. The registration fee required pursuant to N.J.A.C. 13:37A-7.1.

(d) Registration will be valid for two years and shall be renewed by submitting the information and fees required by (c) above.

(e) If any of the information submitted pursuant to (c) above changes, the employer shall notify the Board within 30 days of the change.

13:37A-6.2 Suspension or revocation of registration

(a) The Board shall either suspend or revoke the registration of an entity that has:

1. Submitted false or misleading information in its application submitted pursuant to N.J.A.C. 13:37A-6.1(c) or (d); or

2. Failed to demonstrate that every employee who is engaged in providing massage and bodywork therapy services is licensed to practice by the Board.

SUBCHAPTER 7. FEES

13:37A-7.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee.....	\$75.00
2. Initial license fee	
i. If paid during the first year of a biennial renewal period .....	\$120.00
ii. If paid during the second year of a biennial renewal period.....	\$60.00
3. Renewal of license .....	\$120.00
4. Late license renewal.....	\$50.00
	Plus the applicable biennial license renewal fee set forth in (a)3 above
5. Reinstatement fee .....	\$100.00
	Plus the applicable biennial license renewal fee set forth in (a)3 above
6. Duplicate license .....	\$35.00
7. Inactive license fee.....	\$60.00
8. Verification of license for endorsement .....	\$30.00
9. Written verification of license.....	\$25.00
10. Employer registration.....	\$150.00