



NEVADA BOARD OF MASSAGE
THERAPISTS TRAINING

Who is the Board?

- NRS 640C.150 creates the Board and provides that it consists of 9 members. 6 members must be licensed to practice massage therapy in Nevada *and* have engaged in that practice for 2 years or more. Within those 6 members, three members must be residents of Clark County, two must be residents of Washoe County and one member must be a resident of any other county in Nevada. One member must be a structural integration practitioner and one member must be a reflexologist. The remaining member is member of the general public who is not a licensed massage therapist or the spouse, parent or child of a massage therapist.
- The Board also has one *nonvoting advisory* member. This member must be a resident of Clark County, a certified peace officer who is actively serving or has retired from service as a police officer with Las Vegas Metro Police Department. This member serve solely as an advisory of the Board and may be designated to assist in any investigation of the Board
- All members serve term of 4 years and may not serve more than 2 consecutive terms

Who does NRS chapter 640C apply to?

- NRS 640C.100 exempts certain persons from the applicability of NRS 640C:
 - Persons licensed pursuant to NRS 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B, but only if the massage therapy is performed in the course of the practice of the person. (Naprpaths were added in 2023) Thus, a nurse who performs massage in the course of his or her practice would not be subject to an unlicensed activity citation, but that same nurse cannot perform massage in a massage establishment outside the course of his or her nursing practice
 - A licensed barber or apprentice (NRS 643) if that barber or apprentice is massaging, cleansing, or stimulating the scalp, face, neck or skin
 - A registered advanced esthetician, esthetician, esthetician apprentice, hair designer or apprentice, hair braider, shampoo tech, cosmetologist or apprentice, and the corresponding apprentices (NRS 644A) if it is within the scope of practice for such person
 - Nail technologist or apprentice (NRS 644A) if it is within the scope of practice for such person (limited to hands, forearms, feet or lower legs)
 - Person employed by the athletic department of any high school, college or university in Nevada who within the scope of that employment performs massages on athletes
 - Students enrolled in school of massage therapy, structural integration or reflexology

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- Persons who practice massage therapy on members of his or her immediate family
- Counties, cities and towns in NV are preempted from requiring a massage therapists to obtain a license and or regulating the practice of massage therapy
- Counties, cities and towns in NV are permitted to require massage therapists to obtain a license to transact business within the county, city or town.

What is the Board's Job?

- Statutorily the Board is required to:
 - Review and evaluate applications for licensing massage therapists, structural integration practitioners and reflexologists and establishment certificates
 - Determine the qualifications and fitness of applicants
 - Issue, renew, reinstate, revoke, suspend and deny licenses or certificates, as appropriate
 - Enforce the provisions of NRS and NAC chapter 640C
 - Investigate complaints filed with the Board
 - Impose penalties it determines are required to administer the provisions of chapter 640C
 - Any other business required to carry out its duties
 - Adopt regulations for the regulation of the practice of massage therapy, structural integration, reflexology and establishments

Continued

- The prior slide describe statutory duties, but there are other duties not expressly defined in statute
- As Board members you represent the practice of massage therapy, structural integration, and reflexology in the State of Nevada
- You must ensure that the practice is held to the highest standards
- You guide the principals of the practice of massage therapy, structural integration, and reflexology in Nevada
- You determine the public policies that the practice of massage therapy, structural integration and reflexology should support
- Engage the industry in conversations regarding public policy
- Revise statutes and regulations

What is massage therapy?

- The application of a system of pressure to the muscular structure and soft tissues of the human body for therapeutic purposes. It includes:
 - Effleurage
 - Petrissage
 - Tapotement
 - Compressions
 - Vibration
 - Friction
 - Movements applied manually with or without superficial heat, cold, water or lubricants for the purpose of maintaining good health and establishing and maintaining good physical condition
 - DOES NOT INCLUDE: diagnosis, adjustment, mobilization, manipulation of any articulations of the body or spine; reflexology
 - DOES NOT INCLUDE: demonstration of a product on a person that applies a system of pressure, provided the demonstration is not longer than 2 minutes

Licensee Qualifications

- Applicant is 18 years of age
- Proof of completion of a program of massage therapy, structural integration or reflexology recognized by the Board
- Submits fingerprints
- Identification of licensing status in other states and if there has been any disciplinary action on the license
- Pass a nationally recognized exam or an oral exam of the Board
- May not issue license if applicant is not in compliance with a court order for child support

Exceptions to certain licensing requirements

- The Board is authorized to issue a license to an applicant who holds a current license issued by another state if:
 - Complete an application
 - Pay the fees
 - Notarized statement by applicant attesting to the disciplinary status, convictions in the past 10 years
 - Certified statement from each licensing authority verifying disciplinary status
 - State where applicant licensed had requirements at the time of license issuance in that state that were substantially equivalent to the requirements set forth in NRS 640C

More exceptions

- Board is authorized to issue a license by endorsement to an applicant who:
 - Holds a license in another state
 - Is a citizen or authorized to work in the US
 - Has not been disciplined or investigated by the other state
 - Has not been held civilly or criminally liable for malpractice in any state
 - Submits fingerprints
- Board has 15 business days after receiving an application for license by endorsement to provide written notice of any additional information needed
- Unless the Board denies for good cause, *shall* approve the license not later than 45 days after receiving the application or ten days after it receives the background report, whichever is later
- License may be issued by the Board or chair and executive director

Exceptions for military

- Board is authorized to issue licenses by endorsement to applicants who:
 - Hold a license in another state
 - Is an active member, or the spouse of an active member, veteran or surviving spouse of a veteran
 - Same requirements as other license by endorsement

Wellness Services Exception

- NRS 629.580 authorizes certain persons to perform wellness services without a license
- Person who performs wellness services is not required to have a license as a provider of health care
- Definition of provider of healthcare does not include massage therapists
- Performing massage, structural integration or reflexology is not one of the authorized services (ie must be licensed still)
- Wellness services include: aromatherapy, reflexology, reiki, detoxification practices and therapies, holistic kinesiology, healing practices using food, dietary supplements, nutrients and the physical forces of heat, cold, water and light

Temporary licenses

- Board authorized to issue temporary licenses
- Similar requirements for standard license
- Person must have taken the national exam or will take the national exam within 90 days
- Valid for 90 days
- May only practice massage, structural integration or reflexology under the supervision of a fully licensed individual
- Not renewable

Expiration and Renewal

- Licenses expire on the last day of the month in which it was issued in the next year
- May renew license if:
 - Submits application
 - Proof of completion of continuing education (must take 12 hours)
 - Fee
- Licensee may restore a license that expired if, within 2 years of the license expiring:
 - Submits form
 - Fees
 - Continuing education
- Board required to send notice of renewal not less than 60 days before it expires

Inactive licenses

- Holder of a license who is in good standing may request that the license be placed inactive
- Such a person may not practice massage therapy, structural integration or reflexology
- If the inactive holder desires to resume practice within 2 years after the license was made inactive may restore if:
 - Demonstrates holder is qualified and competent
 - Submits application
 - Pays fees

Disciplinary action

- As part of the way it regulates the profession, the Board is authorized to discipline licensees who have acted in violation of the chapter
- Grounds for imposing discipline (and denying licenses) are:
 - Submitting false, fraudulent or misleading info to the Board
 - Violated a provision of the chapter or regulations
 - **Convicted** of a crime involving violence, prostitution, sexual offense, larceny, controlled substances, federal state law or reg relating to massage therapy or similar business, moral turpitude
 - Engaged or solicited sexual activity during massage, with or without consent
 - Habitually abused alcohol or addicted to controlled substance
 - Guilty of gross negligence **in the practice of massage therapy, structural integration, or reflexology**
 - Determined by the Board to be **professionally incompetent to engage in the practice of massage therapy, structural integration or reflexology**

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- Failed to provide requested information within 60 days
- Knowingly failed to report other licensees engaged in unethical or unprofessional conduct as it relates massage therapy, structural integration, or reflexology within 30 days of becoming aware
- Been disciplined in another state for conduct that would be a violation of this chapter or regulation
- Solicited or received compensation for services that the licensee didn't provide
- Violating terms of probation
- Engaged in false, deceptive or misleading advertising
- Operates a medical facility when the facility's license was suspended/revoked or committed an act/omission that resulted in license being revoked/suspended
- Failed to comply with a written citation
- Failed to pay an administrative fine issued by the Board

Imposition of Discipline

- Place licensee on probation
- Administer a public reprimand
- Refuse to issue, renew, reinstate or restore the license
- Suspend or revoke the license (not more than 10 years)
- Impose an administrative fine of not more than \$5,000 per violation
- Require licensee to pay costs incurred for the investigation/hearing
- Any combination of those
- **Private reprimands are prohibited**

Special rules for sexual acts

- If the Board determines that a licensee has engaged in or solicited sexual activity during the course of practicing massage, structural integration or reflexology on a person the Board is required to impose certain fines:
 - For first offense: fine of not less than \$100 and not more than \$1,000
 - For a second offence: fine of not less than \$250 and not more than \$5,000
 - For third offense: fine of not less than \$500 and not more than \$10,000
- Board required to establish by regulation the standards for determining the amount of an administrative fine imposed for this:
 - Gravity of violation
 - Good faith of licensee
 - History of previous violations

Suspension of licenses

- NRS 233B.127 if the Board determines that the health, safety or welfare of the public require emergency action and the Board makes such a finding, the Board may summary suspend the license
- If there is a summary suspension of the license, must have a hearing on the suspension within 45 days
- Board may also temporarily suspend the license for 15 business days
- Law enforcement agencies that arrest a licensee for prostitution or other sexual offense are required to report that arrest to the Executive Director. ED required to send a cease and desist letter to licensee and license must be suspended for not more than 15 business days

Complaints

- Board can initiate complaints
- Consumers file complaints
- Licensees file complaints
- When complaint received, Board investigates allegations
- May request conviction record concerning licensee complained about
- Board may issue subpoenas

Administrative Citations

- If Board, based on preponderance of the evidence (existence of the fact is more probable than nonexistence) has reason to believe that a person (including a licensee) has committed an act that would be a violation of this chapter or regulation, may issue administrative citation
- Citation may require:
 - Order to take corrective action (must state timeframe for completion)
 - Order to pay administrative fine
 - Order to reimburse Board for expenses incurred for investigation (not more than \$150)
- For unlicensed persons the fine:
 - First violation: \$100-\$1,000
 - Second violation: \$250-\$5,000
 - Third violation: \$500-\$10,000

Continued

- Person may request hearing on administrative citation within 15 business days
- Board may extend the time upon good cause shown
- If request for hearing is received, have a hearing

Establishments

- The Board and local jurisdictions have concurrent jurisdiction over establishments
- Board has adopted regulations regarding the issuance of certificates
- Establishment must have a certificate issued by the Board in order to operate
- Must submit photo of establishment, list of services provided
- Certificates are valid for 1 year and must be renewed

Administrative hearing

- Board receives complaint from consumer or initiates its own complaint
- Individual has a property right in the license, cannot take it away or restrict it or impose a fine without a hearing offering the licensee due process
- Board staff investigates complaint—interviews witnesses, requests documents
- Staff prepares a report and submits report and documentation to legal counsel
- Legal counsel drafts Complaint and Notice of Hearing which is “filed” with the Board
- Board is allowed to see that document—this is the charging document and outlines the alleged facts and alleged violations of law and sets forth the date and time of the hearing

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- Sometimes the Complaint is settled prior to the hearing
- Settlement document and Complaint are included in the Board packet for the meeting
- Because legal counsel and licensee have agreed to the terms of the settlement, the Board is limited with regard to what it can “know” regarding the underlying Complaint
- Board’s role is to review the Complaint and review the Settlement terms and conditions and determine if those terms are discipline the Board agrees with.
- If the Board feels that the settlement terms are not appropriate, the Board can reject the terms and the Complaint would be set for a hearing at another date unless the licensee agrees to the terms the Board would impose

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- If the matter is not settled prior to the hearing, a full evidentiary hearing will be held
- At the hearing, legal counsel will present witnesses and any documents that will go to prove the alleged facts are true and did occur and that those facts support a finding that the licensee violated the alleged violations of law contained in the Complaint
- Board Chair is responsible for ruling on any motions presented, objections and requests (Board counsel not presenting the Complaint will aid the Chair in rendering a decision)
- Hearing may be closed—may close the hearing to take testimony or for the entire hearing
- Deliberation and decision of Board must be made in an open session

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- If the Board finds that the alleged facts are true and the violations of law did occur, Board makes motion as to the facts that have been proven. Then a second motion as to what violations of law are proven.
- Board then moves to imposing discipline
- Can ask Board staff/legal counsel for a recommendation
- Can take severity of situation into account, the demeanor of the licensee, the extenuating circumstances
- Motion to impose discipline and the terms of the discipline

Confidentiality

- NRS 640C.580, 640C.600, 640C.620 provide that the background investigation that is conducted of an applicant is confidential, but doesn't prevent the Board from cooperating with an investigation being conducted by another licensing body, federal, state or local agency, law enforcement agency
- NRS 640C.745 provides that the Board may request the criminal history of an applicant or licensee, and the report provided must remain confidential
- NRS 640C.760 provides that the investigative file relating to a complaint against a licensee is confidential unless the licensee submits a written statement to the Board requesting that the documents become public records

Ethical Obligations

- Chapter 281A sets forth the ethical standards public officers, such as members of the Board, must adhere to when carrying out their duties
- NRS 281A.400 prohibits public officers from accepting any gift, service, favor, employment, engagement, emolument, or economic opportunity for the public officer or employee or any person to whom the public officer has a commitment in private capacity which would tend to improperly influence **a reasonable person** in the public officer's position to depart from the faithful and impartial discharge of the public officer's duties
- In addition, it prohibits a public officer from using their position to secure or grant unwarranted privileges, preferences, exemptions, or advantages for the public officer, any business entity in which the public officer has a significant pecuniary interest or anyone to whom the public officer has a commitment in a private capacity

- It goes on to prohibit the public officer from negotiating or executing a contract between the government and the public officer or any business in which the public officer has a significant pecuniary interest or any person to whom the public officer has a commitment in a private capacity
- Prohibits the public officer from accepting any salary, retainer, augmentation, expense allowance, or other compensation from any private source, for the public officer or any person with whom the public officer has in a private capacity for the performance of the public officer's duties as a public officer
- Prohibits the public officer from using information that the public officer gathers through his or her duties to further significant pecuniary interests of the public officer
- Prohibits the public officer from suppressing any governmental report or other official document because it might tend to affect unfavorably a significant pecuniary interest of the public officer or a person whom the public officer has a private commitment
- Pecuniary interest means any beneficial or detrimental interest in a matter that consists or is measured in money or otherwise related to money

- NRS 281A.420 requires a public officer to disclose information regarding a gift or loan, matter in which the public officer has a significant pecuniary interest, matter which would reasonably be affected by the public officer's commitment in a private capacity to the interest of another person; or a matter which would reasonably be related to the nature of any representation or counseling that the public officer provided to a private person for compensation before another state agency within the immediately preceding year
- Goes on to provide that a public officer shall not vote upon or advocate the passage or failure of a matter if in the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the acceptance of a gift or loan, significant pecuniary interest, commitment in a private capacity to the interests of another person.
- Result is the public officer must abstain from voting on that matter and make the disclosure as to why

Questions?