

Tennessee Board of Massage Licensure



Newsletter



FALL 2016

A regulatory agency of the State of Tennessee

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RULEMAKING HEARING

The Tennessee Massage Licensure Board will hold a Rulemaking Hearing at 9:00 am CT on October 24, 2016. The substance of the Rulemaking Hearing is described in full in the Notice which is available online at:

http://share.tn.gov/sos/rules_filings/08-31-16.pdf

The meeting is open to the public and will be held in the Iris Conference Room at the Board's Administrative Office located at 665 Mainstream Drive, Nashville, TN 37243. The Board strongly encourages that any comments be submitted in writing to the above address no later than Monday, October 10, 2016.

LEGISLATIVE UPDATE

Public Chapter 554

As enacted, extends the Tennessee Massage Licensure Board six years to June 30, 2022.

Public Chapter 719

As enacted, allows licensing authorities for certain state regulatory agencies to consider whether a person's conviction for the commission of a felony bears directly on the person's fitness to practice competently when making determinations regarding the person's licensure statues.

Public Chapter 763

As enacted, permits licensees whose licenses have expired due to non-payment to obtain reinstatement when payment of past due renewal fees, which are capped at twice the annual renewal fee, and

unattained continuing education are completed. This replaces the current requirement of payment of all past due fees before reinstatement. This act took effect on July 1, 2016.

Public Chapter 956

As enacted, this replaces the present law requirement that individual physician's offices and practices register as medical spas, with a requirement that any physician-owned practice that advertises or holds itself out as a medical spa or a physician-owned practice that primarily engages in the performance of elective cosmetic medical services must register as a medical spa. This legislation further changes the deadline for submitting information related to registering as a medical spa from January 1, 2016 to January 1, 2017. This act took effect on April 27, 2016.

If you wish to review any of the Public Chapters in their entirety, please visit:

<http://sos.tn.gov/division-publications/acts-and-resolutions>

ACTIVE LICENSEES AS OF September 15, 2016

Massage Therapists: 4,279

Massage Establishments: 1,650

APPLICANTS WITH CRIMINAL CONVICTIONS POLICY

Any person who has applied for a license as a massage therapist or for an establishment license who has a felony conviction which occurred ten (10) or more years prior to the date of application for licensure; or a single misdemeanor conviction or group of misdemeanor convictions all arising out of a single incident which occurred five (5) or more years prior to the date of application for licensure **MAY NOT** be required to appear before the Board. The Board's manager, in consultation with the Board's advisory attorney or consultant when appropriate, is authorized to issue a temporary authorization pursuant to T.C.A. § 63-1-142 and determine whether or not the applicant needs to appear before the Board before a license can be issued.

The following are referred to the peer assistance program as described in the Board's Substance Abuse Policy and are required to appear before the Board before any license or practice authorization may be issued:

1. Any applicant who has a felony conviction which occurred less than ten (10) years from the date of application for licensure; or
2. Any applicant who has a single misdemeanor conviction or group of misdemeanor convictions all arising out of a single incident which occurred less than five (5) years from the date of application for licensure; or
3. Any applicant who has more than one felony conviction regardless of when they occurred; or
4. Any applicant who has a pattern of multiple misdemeanor convictions not arising out of a single incident regardless of when they occurred.

Furthermore, any person convicted of a crime described in T.C.A. § 63-18-105(b)(2) (prostitution or sexual misconduct) cannot be considered for or granted a license.

Notwithstanding this policy, the Board's manager, in consultation with the Board's advisory attorney, may make exceptions to this policy on a case-by-case basis when referral to the Board's peer assistance program is not necessary.

Adopted by the Board on May 4, 2016

LAPSED LICENSE POLICY

The Massage Licensure Board recognizes that an individual or an establishment may inadvertently allow his/her/its license to expire. However, applicable law prohibits an individual from working as a massage therapist unless he/she has an active license, and prohibits the practice of massage therapy in an establishment without an active license. As such, the Board has adopted the following procedures for reinstatement of an expired license.

1. Immediately upon recognition that the license has expired, the individual must cease practicing, or the establishment must cease operating, and a reinstatement application must be obtained from the Board's website or from the Board's administrative office.

2. The reinstatement application must be completed in its entirety, including a detailed work history since the license expiration date. The application is to be signed, notarized, and returned to the Board's administrative office along with any additional information and all fees specified in the instructions.

3. Upon receipt of a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, the Board's administrator may reinstate a license which has been in an expired status for less than three (3) months immediately upon approval from the Board's consultant. Although the Board and administrative staff recognize the applicant's urgent interest in having his or her license reinstated, preferential treatment will not be given to these applicants. All applications are reviewed in the order in which they are received.

4. If the work history reflects that the individual has practiced in excess of three (3) months but less than nine (9) months on an expired license, the Board will send the licensee an Agreed Citation that specifies payment of a fine in the amount of one hundred dollars (\$100) per month for every month in which the individual has worked at least one day beyond the first three (3) months.

5. If the work history reflects that the individual has practiced in excess of nine (9) months but less than twelve (12) months on an expired license, the Board will send the licensee an Agreed Citation that

specifies payment of a fine in the amount of six hundred dollars (\$600) PLUS two hundred fifty dollars (\$250) per month for every month in which the individual has worked in excess of nine (9) months. The Agreed Citation shall further specify that the licensee will be placed on probation until the next renewal period.

6. The license of an individual or establishment that has been sent an Agreed Citation pursuant to this policy will not be reinstated unless and until the Agreed Citation is executed by the licensee and payment of the fine remitted to the Board's administrative office.

7. Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website and on its monthly disciplinary action report, as well as to all appropriate federal databanks including the National Practitioner Data Bank (NPDB).

8. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed Citation is sent to the licensee, or if the licensee practiced on a lapsed license for twelve (12) months or longer, the licensee shall be referred to the Office of Investigations and Office of General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:

- A. A reprimand of the license and probation of the license until the next renewal period;
- B. Assessment of civil penalties in an amount to exceed the amounts specified above;
- C. Assessment of costs associated with investigating and prosecuting the matter; and
- D. Any and all other remedies the Board deems appropriate.

9. In the event the matter is referred to the Office of Investigations and Office of General Counsel for formal disciplinary action, the Board's administrative office shall be permitted to reinstate those applicants for whom they have received a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, subject to further action on the license as described in paragraph eight (8) above. Though the Board's administrator may reinstate such a license upon approval from the Board's consultant, preferential treatment will not be given to these applicants. These applications will be reviewed in

the order in which they are received. For applicants who have declined an Agreed Citation, their application will be deemed received sixty (60) days from the date the Agreed Citation was sent.

Adopted by the Board on February 8, 2016.

FAILURE OF APPLICANT TO COMPLY WITH REFERRAL TO IMPAIRED PRACTITIONER PROGRAM POLICY

If an applicant for a massage therapist license or a massage establishment license is referred to the Board's impaired practitioner program pursuant to policy, and that applicant fails to comply with the referral or declines services from the impaired practitioner program after such services are recommended pursuant to an evaluation, the Board or its application review committee may consider the application in full at its next meeting. The applicant's failure to comply with the referral or declining of recommended services may be grounds for denial of the application.

Adopted by the Board on May 2, 2016.

2017 BOARD MEETING DATES

February 6 - 7, 2017

May 11 - 12, 2017

August 7 - 8, 2017

November 8 - 9, 2017

All Board meetings begin at 9:00 a.m., Central Time. Board meetings are held at the Board's administrative office and are open to the public. Dates are subject to change, but are listed on the Board's website.

As of January 1, 2015, all board meetings are streamed live. The link is:

<https://web.nowuseeit.tn.gov/Mediasite/Catalog/Full/98fe21d561e9489487745f0c7da678b221>

RESOLUTION – HUMAN TRAFFICKING

Human trafficking is a form of modern-day slavery. It is an illegal practice in which traffickers will use force, fraud, or coercion to make victims engage in commercial sex acts or services of labor against his or her will.

In order to help combat this issue on a national level, the Tennessee Massage Licensure Board presented the below Resolution regarding Human Trafficking at the 2015 Federation of State Massage Therapy Boards (FSMTB) Annual Meeting. The resolution passed and the task force is now hard at work.

Title of Resolution: **Resolution on Trafficking in Human Beings**

Member Board/Committee Proposing Resolution: **Tennessee Massage Licensure Board**

WHEREAS, human trafficking is a deplorable violation of the human dignity of its victims; and

WHEREAS, many of the victims of human trafficking are women and children who are forced into sexual exploitation, endure gender-based violence, discrimination, marginalization and underpaid illegal labor; and

WHEREAS, both governmental and non-governmental entities have condemned the practice as being tantamount to modern slavery which should shock the conscience; and

WHEREAS, many victims of this heinous conduct are coerced into prostitution under the guise of performing massage therapy;

THEREFORE BE IT RESOLVED, that the Federation of State Massage Therapy Boards take a decisive and unified stance against human trafficking; and

RESOLVED FURTHER, that Federation of State Massage Boards form a Task Force to Address Human Trafficking in the Massage Profession. The Task Force shall consist of at least one representative from at least five states and shall meet telephonically at least twice.

RESOLVED FURTHER, that the purpose of the Task Force shall be to determine the prevalence

and impact of human trafficking on the massage profession and identify areas within the jurisdiction of the Federation of State Massage Therapy Boards to combat it.

RESOLVED FURTHER, that the Task Force shall identify measures that could be pursued by individual member boards to curtail or eliminate human trafficking in the massage profession.

RESOLVED FURTHER, that the Task Force to Address Human Trafficking in the Massage Profession shall report its findings to the Delegate Assembly at the 2016 annual meeting of the Federation of State Massage Therapy Boards.

The National Human Trafficking Resource Center (NHTRC) is the national anti-human trafficking hotline and resource center. The NHTRC serves victims and survivors of human trafficking, in addition to the anti-trafficking community, throughout the United States. The toll-free hotline is available to answer calls from anywhere in the country, 24 hours a day, 365 days a year, in more than 200 languages.

NHTRC HOTLINE: 888-373-7888

PEER ASSISTANCE

The Board of Massage Licensure has contracted with the Tennessee Professional Assistance Program (TnPAP), to assist in safeguarding health care consumers in Tennessee by providing a consultation, referral, and monitoring program for Massage Therapy Practitioners whose practice is impaired or potentially could be impaired due to the use of alcohol or drugs, or a psychological or physiological condition.

A referral can be made confidentially by an employer, employee assistance program professional, a co-worker, practice partner, family member, friend, or the practitioner him/herself.

Tennessee Professional Assistance Program
545 Mainstream Drive, Suite 414
Nashville, TN 37228-1210

Phone: (615) 726-4001

Toll Free: (800) 776-0786

Fax: (615) 726-4003

Website: www.tnpap.org

MISSION OF THE BOARD

The Board's purpose is to protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice massage therapy. The board adopts and interprets the laws, rules, and regulations to establish and maintain a high standard of integrity, skills, and practice in the profession of massage therapy. The board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

Tennessee Massage Licensure Board Board Members as of September 15, 2016

Julie Wray, LMT
Board Member

Ed Bolden, LMT
President

Marvis Burke, LMT
Secretary

Bethann Easterly, LMT
Board Member

Christi Cross
Citizen Member

Cynthia Jagers, LMT
Board Member

Michael Velker
Citizen Member

Board Staff

Lisa Lampley
Board Director

Kimberly Hodge
Board Manager

Dale Hill
Board Administrator

Ruth Stewart
Licensing Tech