# Oregon Board of Massage Therapists

**Oregon Administrative Rules**

Chapter 334

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# MASSAGE THERAPISTS

334-001-0000 Notice to interested persons

334-001-0005 Model rules of procedure

334-001-0012 Budget

334-001-0020 Contracting and procurement

334-001-0025 Application of the Board's procurement policies; exceptions

334-001-0028 Procurement authority

334-001-0032 Source selection

334-001-0036 Contract amendments

334-001-0045 Personnel policies

334-001-0055 Board member stipend

334-001-0060 Definitions

334-010-0005 Applications

334-010-0006 Facility permits

334-010-0008 Indorsement

334-010-0009 Credentialing review

334-010-0010 Examination

334-010-0012 Examination appeal

334-010-0015 Licensure

334-010-0017 Lapsed license

334-010-0018 Criminal background check, fitness determinations

334-010-0025 Practice of massage

334-010-0027 Exempt practices

334-010-0028 Breast massage

334-010-0029 Internal cavity massage

334-010-0033 Fees

334-010-0046 Class certification

334-010-0047 Competencies

334-010-0050 Continuing education

334-020-0005 Facilities and sanitation

334-020-0015 Equipment

334-020-0050 Linens

334-020-0055 Communicable disease control

334-030-0001 Preamble and fundamental canon

334-030-0005 Standards and objectives of professional conduct

334-040-0001 Complaints

334-040-0010 Discipline

DIVISION 1
PROCEDURAL RULES

334-001-0000
Notice to Interested Persons
Prior to adoption, amendment or repeal of any rule relating to the practice of massage or bodywork, the Board must give notice pursuant to ORS 183.335 of the proposed adoption, amendment or repeal:

(1) By mailing or delivering a copy of the notice to persons on the Board's mailing list, established pursuant to ORS 183.335(8);
(2) By mailing or furnishing a copy of the notice to representatives of the:
(a) Associated Press and United Press International;
(b) Oregon Massage Therapists Association;
(c) American Massage Therapy Association -- Oregon chapter; and
(d) Certified Massage Schools in Oregon.
(3) By mailing or furnishing a copy of the notice to other persons, organizations, and publications that may have an interest in the subject matter of the proposal.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 687.011, 687.086 & 687.121
Hist.: MTB 1-1978, f. & ef. 7-28-78; MTB 2-1982, f. & ef. 7-21-82; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

334-001-0005
Model Rules of Procedure
The most current Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act are by this reference adopted as the rules and procedures of the Board of Massage Technicians and must be controlling except as otherwise required by statutes or rules.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1978, f. & ef. 7-28-78; MTB 1-1980, f. & ef. 2-26-80; MTB 1-1982, f. & ef. 2-4-82; MTB 1-1985, f. & ef. 1-8-85; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98

334-001-0012
Budget
The Oregon Board of Massage Therapists hereby adopts, and fully incorporates herein, the Oregon Board of Massage Therapists' 2015–2017 Biennium budget of $1,865,000.

Stat. Auth.: SB 1127, ORS 183 & 687.121
Stats. Implemented: Section 6, (1) & (2)
Hist.: BMT 2-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2001, f. & cert. ef. 5-29-01; BMT 2-2003, f. & cert. ef. 6-17-03; BMT 2-2005(Temp), f. & cert. ef. 6-24-05 thru 6-30-05; BMT 3-2005, f. 6-24-05, cert. ef. 7-1-05; BMT 1-2007, f. & cert. ef. 6-29-07; BMT 2-2007, f. & cert. ef. 7-3-07; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11; BMT 2-2011, f. 6-29-11, cert. ef. 7-1-11; BMT 1-2013, f. 5-31-13, cert. ef. 7-1-13; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

334-001-0020
Contracting and Procurement
(1) It is the policy of the Board to conduct its procurement efforts to ensure a process that promotes fairness, integrity, security, and honesty to maximize revenue and achieve the best value for the Board.
(2) These rules are used to simplify, clarify and modernize the public contracting of the Board.

Stat. Auth.: SB 1127
Stats. Implemented: Section 5(4)
Hist.: MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-001-0025

Application of the Board's Procurement Rules; Exceptions

(1) General: It is the policy of the Board to maximize the net revenues of the Board and to conduct its contracting affairs in an open, competitive manner.

(2) Exceptions: The Board may enter into the following classifications of Contracts without a competitive process:

(a) Contracts between the Board and a state agency or local government of this state or another state, with the United States or a United States governmental agency, with an American Indian tribe or an agency of an American Indian tribe, or with a nation or a public agency in any nation other than the United States as permitted in ORS Chapter 190;

(b) Emergency Procurements;

(c) Contracts for books, memberships, or subscriptions;

(d) Price regulated items where the rate or price is established by federal, state or local regulatory authority; and

(e) Purchase of used personal property.

(3) Reservation of Rights: Although the Board is exempt from ORS Chapter 279A and 279B, which govern public contracts and procurement, the Board reserves the right to use, as guidelines to govern its procurement actions, relevant provisions of ORS Chapter 279A, and 279B, the Attorney General's Model Public Contract Rules (OAR chapter 137, divisions 46 and 47) and the Public Contracting Rules established by the Oregon Department of Administrative Services (OAR chapter 125, divisions 246 and 247). However, the procedures set forth in these statutes and administrative rules must be guidance only and must not obligate the Board to follow the procedures set forth in these statutes and administrative rules.

Stat. Auth.: ORS 183, 687
Stats. Implemented: ORS 182.456 - 182.472, 687.011, 687.051, 687.057, 687.061, 687.086, 687.121
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-001-0028

Procurement Authority

(1) General: The Executive Director is authorized to initiate procurements and enter into Contracts and Contract amendments for Goods and Services that are used in the normal day to day operations of the Oregon Board of Massage Therapists and in carrying out the vision of the Board.

(2) Board Approved Contracts: Notwithstanding the provisions of section (1) of this rule, the Board must approve contracts over $50,000 and insure a competitive procurement process is used. The Board having once approved a Contract or Contract amendment authorizes the Executive Director to execute the Contract or Contract amendment, make all disbursements and payments as provided in the Contract or Contract amendment, without further action by the Board.

(3) Emergency Procurements: Notwithstanding the provisions of section (1) of this rule, the Executive Director is authorized to enter into a Contract awarded as an Emergency procurement.

(4) Rule or Statutory Authorization: If a contract action is authorized by statute or rule, the Executive Director is authorized to execute the Contract or any Contract amendment, and make all disbursements and payments as required by the Contract terms or the terms of the Contract amendment.

(5) Price Reduction: The Executive Director is authorized, without further, specific approval action by the Board, to execute any Contract amendment that results in a reduction of the price paid by the Board.

(6) Delegation by Executive Director: The Executive Director may delegate, in writing, to any of the current Oregon Board of Massage Therapists employees the exercise or discharge of any of the powers, duties or functions of the Executive Director in these Division 1 rules.

(7) Legal Sufficiency Review: For all contracts, including amendments, in excess of $150,000 the Board must seek an Attorney General legal sufficiency review and approval, as per OAR 137-045-0015.

Stat. Auth.: ORS 183, 687
Stats. Implemented: ORS 182.456 - 182.472, 687.011, 687.051, 687.057, 687.061, 687.086, 687.121
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-001-0032
Source Selection

(1) General: Either the Board or the Executive Director must Award Contracts for Goods or Services by one of the source selection methods in this rule. Except as provided in section (2), (5) and (6) of this rule, the Board will generally conduct a competitive process for Goods or Services by issuing a Solicitation Document.

(2) Small Procurements: Any procurement of Goods or Services not exceeding $15,000 may be awarded without a competitive process. The Board may Award a Contract in any manner deemed practical or convenient by the Board, including by direct selection or Award. A procurement may not be artificially divided or fragmented so as to constitute a small procurement under this rule.

(3) Intermediate Procurements: Any procurement of Goods or Services exceeding $15,000 but not exceeding $150,000 may be awarded after seeking three competitive price quotes or Offers. Either the Board or the Executive Director must keep a written record of the sources of the Offers received. If three Offers are not reasonably available, fewer will suffice, but either the Board or the Executive Director must make a written record of the effort made to obtain the Offers. If a Contract is awarded, either the Board or the Executive Director must Award the Contract to the Offeror whose Offer will best serve the interests of the Board. A procurement may not be artificially divided or fragmented so as to constitute an intermediate procurement under this rule.

(4) Large Procurements: Any procurement of Goods or Services exceeding $150,000 may be awarded after seeking three solicited competitive Offers. The Board must keep a written record of the sources of the Offers received. If three Offers are not reasonably available, fewer will suffice, but the Board must make a written record of the effort made to obtain the Offers. If a Contract is awarded, the Board must Award the Contract to the Offeror whose Offer will best serve the interests of the Board.

(5) Sole Source Procurements: Either the Board or the Executive Director may Award a Contract for Goods or Services without a competitive process when the Executive Director, or a person designated in Writing by the Board, determines in Writing, based on findings of current market research, that the Goods or Services are available from only one seller or source.

(6) Emergency Procurements:

(a) General: The Executive Director may conduct an Emergency procurement and enter into Contracts Awarded as Emergency procurements in an Emergency. The Executive Director may conduct an Emergency procurement and enter into Contracts Awarded as Emergency procurements regardless of the dollar amount of the Contract without the Board's approval. The Board may, in its discretion, enter into a contract without a competitive solicitation if an emergency exists. Regardless of the dollar value of the contract, the Board entering into an Emergency Contract must encourage competition that is reasonable and appropriate under the Emergency circumstances.

(b) Large Procurements:

(A) Notwithstanding subsection 6(a) of this rule, the Executive Director may conduct an Emergency procurement or enter into an Emergency Contract for a Large Procurement only upon the approval of the Board.

(B)The Executive Director may establish an extension of an Emergency Contract for a Large Procurement without the approval of the Board, where the original Contract specifically provides for the extension, the extension does not result in any change in the terms and conditions of the Contract other than an extension in its term.

(C)The Executive Director must make reasonable efforts to report to the Board in Writing, within five days of the Contract Award, or by the next scheduled Board meeting following the Contract Award date, whichever is later, any Emergency Contracts entered into by the Executive Director. However, the Executive Director's inability or failure to report to the Board within this time must not affect the validity of any Emergency Contract.

(7) Alternative Procurement Methods:

(a) The Board reserves the right to use an alternative procurement method if that method will be more likely to:

(A) Maximize the Board's net revenue;

(B) Achieve the specific business objective or business objectives of the procurement; or

(C) Aid the Executive Director in fulfilling the statutory mandate to operate and administer the Board.

(b) Alternative procurement methods may include, but are not limited to, multistep bids, quotes or Proposals, single Proposer negotiations, competitive negotiations between two or more Proposers, brand name solicitations, and cooperative procurements.

Stat. Auth.: ORS 183, 687
Stats. Implemented: ORS 182.456 - 182.472, 687.011, 687.051, 687.057, 687.061, 687.086, 687.121
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-001-0036
Contract Amendments

(1) Additional Goods or Services: The Board may amend a Contract without additional competition to add additional Goods or Services within the Scope of the Solicitation Document, or if no Solicitation Document, the Contract, subject to the following conditions:
(a) The additional Goods or Services are required by reason of existing or new laws, rules, regulations, or ordinances that affect the performance of the original Contract; or
(b) The prices for the Goods or Services are modified only as follows:
(A) When prices for the Goods or Services are based on unit prices, unit prices that establish the cost basis for the additional Goods or Services were provided in the Offer or original Contract and those prices do not increase except as permitted by an escalation clause in the Contract; or
B) When prices for the Goods or Services are not based on unit prices, options that establish the cost basis for the additional Goods or Services were provided in the Solicitation Document, Offer, or original Contract.

(2) Renegotiated Contract: The Board may renegotiate the terms and conditions, including the Contract Price, of a Contract without additional competition and amend a Contract if it is Advantageous to the Board subject to the following conditions:
(a) The amended Contract is within the Scope of the Solicitation Document, or if no Solicitation Document, within the Scope the Contract;
(b) The Board must determine that, with all things considered, the renegotiated Contract is at least as favorable to the Board as the original Contract; and
(c) The renegotiated Contract will not have a total term greater than allowed in the original Solicitation Document or Contract after combining the initial and extended terms.
(d) If a Contractor offers a lower price in exchange for a term or condition that was expressly rejected in the original solicitation, the amended Contract may be structured with this changed term as an optional, but not as a mandatory Contract term.

(3) Small or Intermediate Contract: The Executive Director may amend a contract awarded as a small or intermediate procurement pursuant to sections (1) or (2) of this rule, but the cumulative amendments must not increase the total Contract Price to a sum that is greater than twenty-five percent of the original Contract Price, unless the amendment increasing the original Contract Price to more than twenty-five percent of the original Contract Price is approved in writing by the Board prior to execution of the amendment.

(4) Emergency Contract: The Board may amend a Contract Awarded as an Emergency procurement if the Emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing Emergency.

Stat. Auth.: SB 1127
Stats. Implemented: Section 5(4)
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-001-0045
Personnel Policies
The Oregon Board of Massage Therapists hereby adopts its own personnel policies which are controlling.

Stat. Auth.: ORS 182.456 - 182.472
Stats. Implemented: ORS 182.456 - 182.472
Hist.: BMT 3-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 3-2005, f. 6-24-05, cert. ef. 7-1-05; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

334-001-0055
Board Member Stipend
The Oregon Board of Massage Therapists hereby adopts a board member stipend of $100 day or portion thereof during which the board member is actually engaged in the performance of official duties.

Stat. Auth.: ORS 182.460 & 687.121
Stats. Implemented: ORS 182.460 & 687.121
Hist.: BMT 1-2010, f. & cert. ef. 4-12-10; BMT 2-2010, f. 7-23-10, cert. ef. 7-26-10; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15, cert ef. 7-2-15

334-001-0060
Definitions
(1) "Advantageous" means in the Board's best interests, as assessed according to the judgment of the Board.
(2) "Award" means either the act or occurrence of the Board's identification of the Person with whom the Board will enter into a Contract.
(3) "Barter" means partial or complete trade or exchange of massage or bodywork services for any other type of goods or service other than money.
(4) "Board" means the State Board of Massage Therapists or its authorized representatives as provided by ORS 687.115.
(5) "Bodywork" means the use on the human body, for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition of:
  (a) Pressure, friction, stroking, tapping, kneading, vibration or stretching by manual or mechanical means or gymnastics;
  (b) Appliances, tools or devices;
  (c) Topical preparations; or
  (d) Hot and cold applications.
(6) "Boundary" means the limits in a professional relationship which create safety based on the needs of the client.
(7) "Boundary violation" means an alteration or shift in the limits of a professional relationship so that what is allowed in the relationship becomes ambiguous and/or may not be based on the needs of the client.
(8) "Caring" means acting in a manner in which things, events, people or relationships matter.
(9) "Certified Class or program" means a class or program that is approved by the Board and is offered:
  (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450; or
  (b) By a community college or university approved by the Department of Education; or
  (c) In another state and licensed or approved by the appropriate agency in that state.
(10) "Client" means any individual, group of individuals, or organization to whom an LMT provides massage
(11) "Client vulnerability" means factors which diminish a client's ability to be self-determining.
(12) "Compensation" means something given or received as payment including but not limited to bartering, tips, monies, donations, or services.
(13) "Conflict of interest" means any action or decision or recommendation by an LMT at the detriment of a client.
(14) "Contact hours" means actual hours in class under the instruction of and in the physical presence of an instructor; or an interactive distance learning course.
(15) "Contract" means an agreement for purchase, lease, rental or other acquisition or sale or other disposal by the Board of Goods or Services.
(16) "Contract Price" means, as the context requires;

(a) The maximum payments that the Board will make under a Contract if the Contractor fully performs under the Contract;
(b) The maximum not-to-exceed amount of payments specified in the Contract; or
(c) The unit prices for Goods and Services set forth in the Contract.

(17) "Contractor" means the Person with whom the Board enters into a Contract.

(18) "Critical Reflection" means a process whereby knowledge and action are connected to each other through the application of careful, conscious, deliberate reflection on:
(a) Personal practice (perceptions, assumptions, motivations, values, behaviors).
(b) Assessment and understanding of a situation.
(c) Likely or actual consequences or impact of one's actions.

(19) "Dual Relationship" means any relationship of a personal or business nature with a client that is in addition to or concurrent with a professional relationship in which the LMT is providing or has provided massage or bodywork services to that same client.

(20) "Ethics" means a system of valued societal beliefs and behaviors that may be used to guide and evaluate conduct to ensure the protection of an individual's person and rights.

(21) "Emergency" means circumstances that:
(a) Could not have been reasonably foreseen;
(b) Require prompt execution of a Contract to remedy the condition; and
(c) The circumstances create a substantial risk of loss or revenue, damage or interruption of services or substantial threat to property, public health, welfare or safety when the circumstances could not have been reasonably foreseen;

(22) Equivalent Credit Hours: are those credit hours as determined by the respective educational institution or its certified classes or programs

(23) Good moral character means
(a) An applicant has not ever before the date of application, been convicted of a felony or an offense involving moral turpitude or prostitution, solicitation, required to be a registered sex offender and other similar offense which has a reasonable relationship to the practice of massage;
(b) Has not ever before the date of application, been convicted of an act involving dishonest, fraud misrepresentation, gross negligence or incompetence or is not currently incarcerated or on community supervision after a period of incarceration in a local, state or federal penal institution for such an act;
(c) Has not ever before the date of application, had a professional license revoked or suspended by this state, a political subdivision of this state, or a regulatory board in another jurisdiction in the United States, or voluntarily surrendered a professional license in lieu of disciplinary action;
(d) Has not ever before the date of the application, had a massage therapy license revoked or suspended by any state or national massage certifying agency.

(24) "Goods and Services" or "Goods or Services" means supplies, equipment, materials and services including Personal Services and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that the Board is authorized by law to procure.

(25) "Indorsement" means the process of evaluating and recognizing the credentials of a person licensed in Oregon in another health care specialty that includes in its scope of practice, acts defined as massage: or

(26) "Informed consent" means a process wherein clients have knowledge of what will occur, that participation is voluntary, and that the client is competent to give consent.

(27) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an LMT

(28) "LMT" means a Licensed Massage Therapist.

(29) "Massage" or "massage therapy" is defined in ORS 687.011.

(30) “Non-Contact hours” means education hours independently acquired outside the presence of an instructor.

(31) "Offer" means a response to a request for price quote or response to a Solicitation Document.

(32) "Offeror" means a Person who submits an Offer.
(33) Professional fitness means
(a) An applicant has not ever before the date of application, been convicted of a felony or an offense involving moral turpitude or prostitution, solicitation, required to be a registered sex offender and other similar offense which has a reasonable relationship to the practice of massage;
(b) Has not ever before the date of application, been convicted of an act involving dishonest, fraud misrepresentation, gross negligence or incompetence or is not currently incarcerated or on community supervision after a period of incarceration in a local, state or federal penal institution for such an act;
(c) Has not ever before the date of application, had a professional license revoked or suspended by this state, a political subdivision of this state, or a regulatory board in another jurisdiction in the United States, or voluntarily surrendered a professional license in lieu of disciplinary action;
(d) Has not ever before the date of the application, had a massage therapy license revoked or suspended by any state or national massage certifying agency.
(34) “Personal power” means recognizing and taking personal responsibility for the inherent power differential between the LMT and the client and recognizing and taking personal responsibility for the impact of professional decisions, actions and behavior on the client.
(35) "Power differential" means the basic inequality inherent in the professional relationship between an LMT and a client in terms of who has the advantage in the relationship. The LMT is presumed to have the advantage by virtue of the authority which emerges from the role of professional and the vulnerability which is automatically part of the role of client.
(36) “Practical Work Experience” means experience gained while employed or self-employed providing legal massage/bodywork to the public within the last five (5) years, in another state or jurisdiction.
(37) "Practice of massage" is defined in ORS 687.011.
(38) "Professional authority" means the power inherent in the professional role and which is derived from a combination of an LMT’s specialized or expert knowledge, societal expectations, stated and unstated client expectations, and an LMT’s personal power.
(39) "Professional relationship" means the relationship established when a LMT contracts with a client, verbally or in writing, to provide any service associated with the practice of massage or bodywork.
(40) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship.
(41) "Scope" means the range and attributes of the Goods or Services described in the applicable Solicitation Document, or if no Solicitation Document, in the Contract.
(42) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors.
(43) "Specification" means any description of the physical or functional characteristics or of the nature of Goods or Services, including any requirement for inspecting, testing or preparing Goods or Services for delivery and the quantities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained.
(44) “Split Fee” means giving or receiving a commission or payment, either monetary or otherwise, for the referral of patients.
(45) “Successful Completion” means the written receipt of credit from classes taken at a community college or university or the written receipt of a certificate from a program or private career school.
(46) "Written" or "Writing" means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

Stat. Auth.: ORS 687.011 & 687.121
Stats. Implemented: ORS 687.011
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 2-2011, f. 6-29-11, cert. ef. 7-1-11; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 2-2012, f. 12-4-12, cert. ef. 1-1-13; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

DIVISION 10
MASSAGE LICENSING

334-010-0005
Applications

(1) All applications for licensure, inactive status, renewal, temporary permit, or a facility permit must be made on forms provided by the Board. Only applications that are completed and on Board approved forms, without alterations, must be accepted for filing and review by the Board.
(2) All applications made to the Board must be accompanied by the required fee.
(3) Applicants for Licensure must submit the following with their application:
(a) A copy of a valid government issued photo identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;
(b) An official certificate or transcript from the administering institutions, instructors, or programs showing successful completion of study and practice in the required subject matter and hours required by the Board.
(A) Official copies of transcripts or certificates presented to the Board in an envelope sealed by the program or institution and verified as sealed may be accepted directly from the applicant.
(B) If a program or institution granting credit is no longer in business, the Board must accept for review a copy of a certificate of completion, transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents.
(i) Transcripts or certificates directly received from other states massage licensing boards will be accepted.
(c) A current photograph of the applicant.
(4) Transcripts must include a minimum of 625 hours of certified classes. The 625 hours must include the knowledge and skills identified in OAR 334-010-0047 competencies and must be comprised of:
(a) A minimum of 200 hours of Anatomy & Physiology, Pathology, and Kinesiology; and
(b) A minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation. Hydrotherapy may be included as part of the 300 hours.
(c) The additional 125 hours can be in Anatomy & Physiology, Pathology, Kinesiology, Massage or Bodywork Theory and Practical Application, Clinical Practice, Business Development, Communication, Ethics, Sanitation or Hydrotherapy.
(d) Hours can be calculated in clock hours or equivalent credit hours from an institution that substantially complies with the definition of credit hours in 34 CFR 600.2.
(5) If for any reason an applicant does not appear to be qualified for Licensure, the applicant must be so notified and invited to submit additional evidence that he/she is entitled to have his/her case considered for licensure.
(a) Applicants who are or have legally practiced massage and/or bodywork outside of the State of Oregon may be eligible to apply for the Credentialing Review Process.
(6) Applicants who apply for licensure on or before December 31, 2015 with a minimum of 500 hours of certified classes and do not take and pass the Oregon practical exam within 60 days of the date of their application must apply as a new applicant.
(7) All application documents for examination and licensure submitted in a language other than English must be accompanied by:
(a) An accurate translation of those documents into English;
(b) A notarized affidavit certifying that the translator is competent in both the language of the document and the English language; and
(c) A notarized affidavit certifying that the translation is a true and complete translation of the foreign language original.
(8) Any costs of translation of all documents required by the Board must be at the expense of the applicant.
(9) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, then the application is considered incomplete.
(10) Applicants for Facility Permit must submit the following with their application:

(a) if a natural person a copy of a valid government issued photo identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a valid state identification card;
(b) if not a natural person:
(A) Copy of the Oregon Secretary of State Business registration, listing all owners and/or shareholders and
(B) Articles of Incorporation or shareholder agreements showing all percentages of ownership with appropriate owners identification including name and address.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0002; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92, Section (7)(d) Renumbered from 334-010-0036; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2011(Temp), f. & cert. ef. 8-10-11 thru 2-6-12; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

## 334-010-0006
### Facility Permits

Applicants for facility permits may be denied for reasons listed in ORS 687.081. Applicants may also be denied for a permit due to prior discipline by the Board for the unlicensed practice of massage. The Board should consider the circumstances of the violations, the duration of the conduct, if the applicant is currently in compliance with the law and orders of the Board and whether the conduct demonstrably related to the Applicants holding a facility license.

Stat. Auth.: ORS 687.121
Stats. Implemented: SB 387

## 334-010-0008
### Indorsement

(1) State Indorsement: The Board may grant a license by state indorsement, upon successful completion of the jurisprudence exam, without any additional examination to any applicant who holds a valid license or permit to practice massage from another jurisdiction if the requirements of that licensing authority meet or exceed the requirements established in Oregon.
(2) Health Indorsement: The Board may grant a license by health indorsement, after successful completion of practical and jurisprudence examination, to any applicant currently holding an active Oregon license in good standing in a Board approved health related field who can document curriculum that includes a minimum of 300 hours comprised of Massage Theory & Practical Application, Clinical Practice, Business Development, Communication, Ethics, and Sanitation. Kinesiology and Hydrotherapy may be included as part of the 300 hours.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-2002, f. 5-8-02, cert. ef. 1-1-03; Renumbered from 334-010-0041 by BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

## 334-010-0009
### Credentialing Review

(1) The Board may grant a license to applicants who are or have legally practiced massage and/or bodywork for a minimum of the previous 3 years after successful completion of the jurisprudence examinations, the written examination and upon a credentialing review.
(a) Credentialing review must be submitted on the approved Board of Massage forms (Credentialing Review), submitted with official transcripts and/or certificates as proof of completion.
(A) Of the 200 Anatomy & Physiology, Pathology and Kinesiology hours required, 120 hours minimum must be from certified class instruction. Of the 200 hours required, up to 80 contact hours of prior continuing education in subject areas may apply.

(i) Official Transcripts or Certificates of Completion must be documented on the approved Board of Massage form: Credentialing Review.

(B) Of the 300 Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, and Sanitation hours required, 140 hours minimum must be from certified class instruction. Of the 300 hours required up to 120 contact hours of prior continuing education in subject areas may apply. Of the 300 hours required, up to 40 hours of practical work experience may apply.

(C) The additional 125 hours can be in Anatomy & Physiology, Pathology, Kinesiology, Massage or Bodywork Theory and Practical Application, Clinical Practice, Business Development, Communication, Ethics, Sanitation or Hydrotherapy. Of the 125 hours required, up to 75 contact hours of prior continuing education in subject areas may apply.

(2) Credentialing Review applications must be accompanied by:

(a) Current Credentialing Review fee and

(b) Any additional documentation required by the Board.

Stat. Auth.: ORS 687
Stats. Implemented: ORS 687.031
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0010

Practical Exam for Indorsement

(1) The examination must be held at least twice annually or as requested.

(2) The applicant will be notified by electronic mail and/or U.S. mail at least two weeks before the scheduled exam, unless otherwise waived by the applicant, of the time and place.

(3) Applicants who have a documented and verifiable emergency may request to have their exam fee apply to a subsequent examination:

(a) Applicant has 14 days to submit written documentation of the emergency;

(b) applicant must sit for the examination within one year of the original date of examination; and

(c) only one request will be allowed.

(4) Refund of the examination fee may be granted upon written request should the applicant not qualify for the examination. Refunds may also be made for individuals who have a documented and verifiable emergency and are unable to sit for the exam provided the written request and associated documentation are received by the board at least 7 days prior to the exam.

(5) Failure to Pass: An applicant must pass the practical examination within 24 months of the initial date of application. The Board may require an applicant with 3 or more examination failures to undertake and satisfactorily complete a Board approved remediation plan prior to reapplying for the examination.

(6) Examinee Conduct: An examinee, whose conduct interferes with the testing process or whose behavior violates ethical practices or jeopardizes the safety of another may be dismissed and disqualified from examination. Such conduct includes but is not limited to the following behaviors:

(a) Giving or receiving examination data, either directly or indirectly,

(b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;

(c) Endangering the life or health of others present

(d) Introducing unauthorized materials during any portion of the examination;

(e) Attempting to remove examination materials or notations from the testing site; or

(f) Violating the credentialing process such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

(7) Test questions, scoring keys, and other examination data used to administer the qualifying examination are exempt from disclosure under ORS 192.410 to 192.505 as amended.
(8) The Board may release statistical information regarding examination pass/fail rates by group, type of examination, school, year, and subject area to any interested party.
(9) All examinations are given in the English language.
(10) Applicants with Special Needs: An applicant is presumed to possess sufficient sensory, visual, hearing and psychomotor capabilities to independently perform massage and bodywork skills. An applicant with special needs may apply to the Board for the provision of special conditions to complete the examination:
(a) The Board may require proof, provided by a qualified professional on letterhead, of the nature of the special need and type of special conditions recommended to complete the exam.
(b) A request for special conditions must be made to the Board in writing at the time of application.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0004; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1982, f. & ef. 7-21-82; MTB 2-1985, f. & ef. 1-23-85; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98, Renumbered from 334-010-0021 [Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92, Sections (6) - (20)(h) Renumbered from 334-030-0020]; BMT 1-1999(Temp), f. 6-14-99, cert. ef. 7-4-99 thru 12-31-99; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2002(Temp), f. & cert. ef. 1-9-02 thru 7-5-02; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 4-2005(Temp), f. & cert. ef. 9-19-05 thru 3-12-06; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2007, f. & cert. ef. 6-29-07; BMT 1-2007, f. & cert. ef. 6-29-07; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0012
Practical Exam for Indorsement Appeal Process
(1) The following appeal process must be utilized to request a Board review of examination results:
(a) A request for appeal must be made by the applicant in writing and must be received in the Board office within thirty days of the date on the letter of notification of examination results sent to the applicant; and
(b) In the written appeal the applicant must specifically state the reason for the appeal and why the applicant believes the results should be modified. The applicant must identify the specific errors of content, procedure, bias, prejudice or discrimination.
(2) The following appeal process must be utilized to conduct a review of examination results:
(a) During the review, the applicant must be identified only by the applicant's test number.
(b) The Board's representative must review the examination results including any written materials, audio or video related to the examinations, examiner comments, and information provided by the applicant related to examination results.
(c) The Board representative(s) must present its findings to the Board in executive session at a regularly scheduled meeting of the Board.
(d) The Board must not consider oral arguments from the applicant regarding an examination appeal unless the Board determines that further information is required directly from the applicant.
(e) The Board must make a determination as to whether to grant the appeal and that the determination must become part of the public record.
(3) An appeal may result in:
(a) No action;
(b) Reversal of a failing score; or
(c) Suspension of a failing score and opportunity for the applicant to retake the practical examination.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0015
Licensure

(1) An applicant for licensure or renewal of a license must complete, in its entirety, an original application furnished by the Board.
(2) An applicant for an initial license and all lapsed and inactive licensees applying for reactivation must submit a completed fingerprint card for a criminal background check.
(3) All applications for licensure must be accompanied by proof of current certification in cardiopulmonary resuscitation (CPR).
(4) An applicant must provide written explanation and copies of all related documentation as requested by the board if:
(a) Applicant has ever been investigated, disciplined or denied licensure by this agency or any other governmental agency in any state or jurisdiction of the United States or foreign country;
(b) Applicant has surrendered a massage license or other professional license in any state or jurisdiction of the United States or foreign country;
(c) Applicant has been arrested, charged or convicted of any type of violation of the law, including both misdemeanors or felonies, other than minor traffic infractions in any state or jurisdiction of the United States or foreign country;
(d) Applicant has abused or been treated for the abuse of alcohol, controlled or mind altering substances; or
(e) Applicant has suffered from and/or received treatment for a mental, physical or emotional condition, which could impede applicant's ability to safely practice massage.
(5) Applicants for initial licensure must have passed a written examination approved by the board unless the applicant is applying through Health Indorsement in which the applicant must have passed a practical examination.
(6) Licenses issued expire on the last day of the licensees' birth month of even numbered years for licensees with even numbered birth years and odd numbered years for licensees with odd numbered birth years. Thereafter, licenses may be renewed every other year upon completion of the application requirements. The application must be returned to the Board postmarked no later than the 1st day of the month of expiration. A delinquent fee must be paid if the completed application and all requirements are not received by the due date.
(7) Applicants for the renewal of an active license must sign a statement verifying completion of a minimum of 25 hours of continuing education. The Board may require proof of the continuing education hours.
(8) Applications for renewal of an active license must be accompanied by:
(a) Current licensing fee;
(b) Any applicable late fees;
(c) Proof of current certification in cardiopulmonary resuscitation (CPR);
(d) Proof of 25 hours of continuing education; and
(e) Any additional documentation required by the Board.
(9) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read, understand, and must comply with all current Oregon Revised Statutes (ORS 687), Oregon Administrative Rules (OAR 334), and policy statements of the Board.
(10) Licenses issued by the Board must not be transferable.
(11) A person licensed by the Board may move to an inactive status by completing the form provided by the Board. Upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, the licensee may not practice massage for compensation in the State of Oregon.
(12) An application to reactivate an inactive license:
must be accompanied by:
(a) Current licensing fee;
(b) Verification of current cardiopulmonary resuscitation (CPR);
(c) Verification of 25 hours of continuing education for each biennium or fraction of the biennium the license was inactive, up to 50 hours; and
(d) Completed fingerprint card for criminal background check.

Stat. Auth.: ORS 687.121 & 687.051
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2006(Temp), f. & cert. ef. 2-16-06 thru 8-7-06; Administrative correction 8-22-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0017

Lapsed License

(1) The massage therapist license is considered lapsed if an individual fails to complete the renewal process prior to the expiration of license.

(2) During the lapsed status, no such person shall practice massage in the State of Oregon.

(3) An applicant whose license is lapsed may return to active status by including the following with the completed application.

(a) Payment of the current fee for activation of the license;

(b) Payment of the licensing fee applicable for the period of the lapsed license;

(c) Late fee payment;

(d) Proof of 25 hours of continuing education for each biennium the license was lapsed and for the current licensing period;

(e) Verification of 4 contact hours in Ethics.

(f) Proof of current certification in cardiopulmonary resuscitation (CPR);

(g) A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another jurisdiction during the period of lapsed status; and

(h) Applicants must submit a completed electronic fingerprint for criminal background check.

(4) All information required for restoring a lapsed license must be received within 3 years of the date of lapsing. Thereafter, one must apply as a new applicant.

(5) Continuing Education is not required if this is your first subsequent renewal after receipt of your initial license.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0018

Criminal Background Checks, Fitness Determinations

(1) The Board requires a criminal background check of all applicants for a massage therapist license to determine the professional fitness of an applicant. These must be provided on prescribed forms provided by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board. The Board must submit fingerprints to the Oregon Department of State Police for checks against state law enforcement data systems and national data sources. Any original fingerprint cards or any electronic fingerprint records must subsequently be destroyed by the Oregon Department of State Police.

(a) The Board requires completed fingerprint cards or any submitted electronic fingerprint of all applicants for an initial license; licensees applying to reinstate a lapsed license or licensees applying to reactivate an inactive license; and licensees under investigation to determine the professional fitness of an applicant or licensee.

(2) These rules are to be applied when evaluating the criminal background of all licensees and applicants for a massage therapist license and conducting professional fitness determinations based upon such history. The fact that the applicant has cleared the criminal background check does not guarantee the granting of a license.

(3) The Board may require fingerprints of any Oregon licensed massage therapist who is the subject of a complaint or investigation for the purpose of requesting a state or nationwide criminal background check.

(4) All criminal background checks must include, but not be limited to, all available state law enforcement data systems and national data sources, unless obtaining one or the other is an acceptable alternative.

(5) Additional information required. In order to conduct the Oregon and National Criminal Background Check and professional fitness determination, the Board may require additional information from the licensee/applicant as necessary, including but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(6) Criminal offender information is confidential. Dissemination of information received under ORS 181.534 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(7) The Board must determine whether an individual is professionally fit to be granted a license. If an individual is determined to be unfit, then the individual may not be granted a license. The Board may make professional fitness determinations conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure. Except as otherwise provided in section (1), in making the professional fitness determination the Board must consider:

(a) Criminal background check;

(b) The nature of the crime;

(c) The facts that support the conviction or pending indictment or that indicates the making of any false statement;

(d) The relevancy, if any, of the crime or the false statement to the specific requirements of applicant's or licensee's present or proposed license, services, employment, position, or permit;

(e) Any refusal to submit or consent to a criminal background check including, but not limited to, fingerprint identification;

(f) Any other pertinent information requested or obtained as a part of an investigation;

(g) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime:

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(8) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests, court records, Department of Motor Vehicle records, or other information that may be indicative of a person's inability to perform as a licensee with care and safety to the public.

(9) If an applicant or licensee is determined not to be professionally fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy of completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(a) If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board must conduct a new criminal background check upon submission of a new request.

(10) If the applicant discontinues the application process or fails to cooperate with the criminal background check process, the application is considered incomplete.

Stat. Auth.: ORS 687 & 676
Stats. Implemented: ORS 181, 183, 687.041, 687.051, 687.081, 670.280
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 1-2012, f. 6-19-12, cert. ef. 7-1-12; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

## 334-010-0025

### Practice of Massage

(1) Massage treatment may include, but is not limited to:

(a) Client intake and assessment;

(b) Practice of massage or bodywork;

(c) Post massage assessment and recommendation; and

(d) Documentation.
(2) Massage treatment does not include:
(a) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces;
(b) The use of equipment or devices that require a prescription; or
(c) Making a medical diagnosis.
(3) A massage therapist must use safe and functional coverage/draping practices during the practice of massage when the client is disrobed.
(a) Safe and functional coverage/draping means:
(A) LMT explains, maintains and respects coverage/draping boundaries;
(B) Client gives informed consent;
(C) Genitals and gluteal cleft of male and female clients and the breast area of female clients are not exposed;
(i) With voluntary and informed consent of the client, the gluteal and breast drapes may be temporarily moved in order to perform therapeutic treatment of the area.
(D) Massage or movement of the body does not expose genitals, gluteal cleft or breast area.
(b) Exceptions to the rule may be made for LMTs who can document training in specific modalities that require variations in coverage/draping.
(4) A Licensed massage therapist must not perform or offer to perform any services for clients other than those connected with giving massage therapy treatments as defined in ORS 687, unless the LMT has additional training and/or licensure.
(5) A person represents himself or herself as a massage therapist when the person adopts or uses any word(s) that implies a skill or application as defined by statute 687.011.
(6) Any person who holds a license as a massage therapist in this state may use the abbreviation “LMT.” No other person(s) may assume such title or such abbreviation or any other word[s], letters, signs, or figures to indicate that the person using the title is a licensed massage therapist.
(7) All licensed massage therapists must notify the Board office in writing of any change of residence, business, email or mailing address within 30 days of change of address.
(8) Active licensed massage therapists must display their license in a location clearly visible to their clients.
(9) Active licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0010; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MTB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-2002, f. 5-8-02, cert. ef. 1-1-03; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

## 334-010-0027
## Exempt Practices

(1) Practitioners exempt from the Oregon Board of Massage Therapists licensing authority are defined as practitioners who:
(a) Do not claim expressly or implicitly to be massage therapists and who limit their work to the practice of:
(A) Using touch, words and directed movement to deepen awareness of existing patterns of movement and suggest new possibilities of movement, as defined per 687.031(1)(j)(i). Examples include the Feldenkrais Method of Somatic Education as defined on May 16, 2011, by the Feldenkrais Guild® of North America and The Trager® Approach as defined on May 16, 2011, by the United States Trager® Association; and Registered Practitioners of Ortho-Bionomy® as defined on December 28, 2012 by the Society of Ortho-Bionomy International; or
(B) Using minimal touch over specific points on the body to facilitate balance in the nervous system, as defined per 687.031(1)(j)(ii). An example includes Bowenwork® and/ or the Bowen Technique as defined on May 16, 2011 by the Bowenwork Academy USA; or

(C) Using touch to affect the energy systems or channels of energy of the body, as defined per 687.031(1)(j)(iii). An example includes Polarity Therapy as defined on May 16, 2011 by the American Polarity Therapy Association; and

(b) Hold an active certification from a National or International professional organization or credentialing agency that:

(A) Requires a minimum level of training specific to their discipline, demonstration of competence and adherence to an approved scope of practice and ethical standards;

(B) Maintains disciplinary procedures to ensure adherence to the requirements of the organization or agency; and

(c) Provide contact information in the practitioner's place of business for any organization or agency that has certified the practitioner.

(2) It is the exempt practitioner's responsibility to insure they meet the criteria for being exempt and only practice within their exempt scope of practice. Practitioners may be subject to discipline by the Board if they:

(a) Refer to themselves or imply they are a massage therapist;

(b) Practice outside of the exempt scope of practice;

(c) Practice without an active certification from a National or International professional organization or credentialing agency; or

(d) Fail to provide contact information in the practitioner's place of business for any organization or agency that has certified the practitioner.

(3) The State Board of Massage Therapists has the authority to verify a practitioners claimed exemption from licensure of ORS 687 under subsection (1)(j) of section 687.031. Verification may include, but is not limited to, consultation with the practitioners certifying organization or agency.

(4) Disciplines and/or Organizations seeking to be named in the exemption shall contact the Board of Massage Therapists to request a review.

Stat. Auth.: ORS 687, SB 454
Stats. Implemented: ORS 687.031
Hist.: BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

## 334-010-0028
## Breast Massage

(1) Prior to performing breast massage to treat certain medical conditions, a LMT must:

(a) be able to present evidence of the completion of specialized contact hours as training beyond the minimum competencies, which includes but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client safety, client consent, client communication, draping techniques, sanitation, and ethical responsibilities related to breast massage;

(b) be able to articulate a therapeutic rationale which is acknowledged by the client; rationale may include a medical prescription and/or permission to consult with the clients health care provider(s).

(c) acquire prior written and verbal consent before proceeding; the written consent must include clients' option to accept or decline to provide a witness, in addition to the client and LMT.

(2) While performing these procedures a LMT must use appropriate draping techniques at all times. Any temporary exposure of the breast area for the purposes of treatment is acceptable only in respect to appropriate procedures for that treatment. Immediately following treatment of the area, the breast area must be covered again.

(3) Additional prior written consent and the actual presence of a parent or legal guardian is required when treating individuals under 18 years of age.

Stat. Auth.: ORS 687
Stats. Implemented: ORS 687.121

## 334-010-0029
## Internal Cavity Massage

(1) All Internal Cavities massage must be performed utilizing universal precautions for communicable disease control.

(2) Internal Cavities consist of nasal cavities, oral cavities, auricular cavities, anal cavities, and vaginal cavities.

(3) Internal cavity massage that must be performed using gloves:
(a) Anal cavities and
(b) Vaginal cavities.
(4) Internal cavity massage that must be performed using gloves or finger cots:
(a) Nasal cavities and
(b) Oral cavities.
(5) Prior to performing these special procedures, an LMT must:
(a) be able to present evidence of the completion of specialized contact hours as training beyond the minimum competencies, which includes but is not limited to, indications, contraindications, therapeutic treatment techniques, expected outcomes, client safety, client consent, client communication, draping techniques, sanitation, and ethical responsibilities related to internal cavity massage;
(b) be able to articulate a therapeutic rationale which is acknowledged by the client; rationale may include a medical prescription and/or permission to consult with the clients health care provider(s);
(6) Prior to performing internal cavity massage a LMT must obtain written and verbal consent before proceeding, written consent must include clients' option to accept or decline to provide a witness in addition to the client and LMT.
(7) While performing these procedures a LMT must use appropriate draping techniques at all times. Any temporary exposure of the genital area for the purposes of treatment is acceptable only in respect to appropriate procedures for that treatment. Immediately following treatment of the area, the genital area must be covered again.
(8) Under no circumstances will intravaginal or intra-anal techniques be performed on individuals under 18 years of age.

Stat. Auth.: ORS 687
Stats. Implemented: ORS 687.121

334-010-0033
Fees
(1) The fees are:
(a) $100 for initial license;
(b) $50 for initial license under 12 months;
(c) $155 per biennial renewal for active license;
(d) $50 per biennial renewal for inactive license;
(e) $25 per week, up to a maximum of $100, for any late renewal;
(f) $100 for application processing;
(g) $150 for each practical examination;
(h) $100 for mailing list;
(i) $10 for license reprint;
(j) $10 for license verification;
(k) $250 Credentialing Review;
(l) Current Oregon State Police Criminal Background Check Fee;
(m) $50 initial facility permit;
(n) $250 facility permit transfer;
(o) $10 facility permit reprint and
(p) other administrative fees as allowed by law.
(2) Application and licensure fees are not refundable

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1989(Temp), f. & cert. ef. 7-27-89; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 4-2004, f. 10-22-04, cert. ef. 1-1-05; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 1-2012, f. 6-19-12, cert. ef. 7-1-12; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

334-010-0046

Class Certification

(1) A class or program certified under ORS 687.051 must be offered by:

(a) In State Schools:

(A) A person or institution licensed as a private vocational school under ORS 345.010 to 345.074 or the equivalent licensing authority of another jurisdiction; or

(B) By a community college or university and approved by the Division of Vocational Education or the Department of Education, or the appropriate agency of another jurisdiction; or

(C) By a college accredited either by the Northwest Accreditation Commission or a like regional association or by a college in Oregon approved by the Oregon Office of Educational Policy and Planning for the purpose of granting degrees; and or

(D) Approved by the Board.

(b) Out of State Schools:

(A) Must be accredited by the governing body where the school is located; or

(B) By a college accredited either by the Northwest Accreditation Commission or a like regional association for the purpose of granting degrees.

(2) In order for a class or program to be approved, the person or institute offering the class or program must apply to the Board. The application packet must contain, but not be limited to:

(a) A completed Board application;

(b) Verification of content meeting the Model Curriculum;

(c) Course descriptions and syllabi;

(d) The institution's Code of Ethics and fraternization policy;

(e) The method of evaluation to determine the student's successful completion of a class;

(f) The attendance requirements for students to successfully complete each class;

(g) Minimum qualifications for selecting instructors.

(3) The authorized representative of the certified class or program must notify the Board at least 60 days prior to any significant changes to information provided in the application process.

(4) A certified class or program must renew their certification on a regular basis as determined by the Board.

(5) Certification of the class or program may be revoked by the Board if it is determined that the requirements have not been or are no longer being met.

(6) Denial or revocation of a class or program certification by the Board, if otherwise not resolved, must be heard by the Board pursuant to ORS 183.411 to 183.497.

Stat. Auth.: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-010-0047

Competencies

A Licensed Massage Therapist must establish by successful completion of Board approved written and/or practical exams, and maintain through Continuing Education, the knowledge and skills relevant to the practice of massage and bodywork as follows:

(1) Knowledge of:

(a) Massage and bodywork assessment and application;

(b) Anatomy;

(c) Physiology;

(d) Kinesiology;

(e) Pathology;

(f) Legal and business requirements;

(g) Ethical principles; and
(h) Basic CPR.
(2) Practical skills application of:
(a) Fundamental techniques of soft tissue manipulation and treatment, and safe utilization of:
(A) Thermal modalities;
(B) Topical preparations;
(C) Mechanical assistance devices and appliances;
(D) Other applications available to the public; and
(E) Movements and exercises that lengthen and shorten soft tissues within the normal range of the client; and
(b) Fundamental principles of body mechanics in the application of massage and bodywork; and
(c) Locating muscle attachments and bellies; and
(d) Draping/coverage practices that address both function and safety.
(3) Demonstrating Treatment and Business skills in the following areas by:
(a) Developing and utilizing treatment plans addressing client conditions and concerns by:
(A) Identification of indications and contraindications,
(B) Informing the client and obtaining informed consent regarding the risks and benefits of the treatment plan, and
(C) Application and modification of the treatment plan as needed;
(b) Using effective verbal and non-verbal interpersonal communication;
(c) Tracking the client's non-verbal communication and adjusting treatment plan as indicated;
(d) Utilizing an ethical decision making process;
(e) Establishing and maintaining a practice environment that provides for the client's safety and comfort; and
(f) Establishing and maintaining professional business records.

Stat. Auth: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

334-010-0050
Continuing Education
The intent of Continuing Education is to protect the public by maintaining and enhancing competencies as defined in OAR 334-010-0047.
(1) Each licensee must complete 25 hours of continuing education in the competencies each renewal period. At renewal time, each licensee must sign and submit a Board supplied CE form indicating they have completed 25 hours of continuing education. The Board may require proof of CE hours.
(a) At least 12 contact hours of continuing education training or Board approved activities (Board or Committee meeting/Peer Supervisor/Examiner of Practical Exam/Board Investigator).
(b) The remaining 13 hours may be contact hours or in areas as defined on the Board supplied CE form.
(2) The continuing education requirement does not apply to a licensee's first license renewal.
(3) Continuing education must be completed within the renewal period. Contact hours taken and submitted during renewal in excess of the total number required may only be carried over to the next subsequent renewal period.
(a) First renewal CE are not required to be submitted at the time of renewal, CE may be submitted with second renewal.
(4) Continuing education records must be maintained by each licensee for a minimum of five years.
(5) If the Board finds indications of fraud or falsification of records, investigative action must be instituted. Findings may result in disciplinary action up to and including revocation of the licensee's license.
(6) Failure to complete continuing education hours by the time of renewal may result in revocation, suspension and/or denial of a license. Licensee has 30 days from date of notification of non-compliance to come into compliance. Failure to be in compliance may result in discipline of the license to practice massage.
(7) Continuing education must be in areas related to the practice of massage or bodywork including theory, research, technique or business development.

Stat. Auth.: ORS 687.081, 687.121 & 687.122
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 1-1998(Temp), f. & cert. ef. 2-3-98 thru 7-31-98; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 2-2004(Temp), f. & cert. ef. 3-16-04 thru 9-7-04; Administrative correction, 9-28-04; BMT 3-2004(Temp), f.& cert. ef. 10-22-04 thru 4-19-05; BMT 1-2005, f. & cert. ef. 2-23-05; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

DIVISION 20
SANITATION, FACILITY AND BUILDING REQUIREMENTS

334-020-0005
Facilities and Sanitation
(1) Permanent and Mobile structures:
(a) All permanent structures and mobile facilities where a LMT routinely conducts massage and bodywork must:
(A) Be established and maintained in accordance with all local, state and federal laws, rules & regulations;
(B) Obtain a facility permit to operate;
(i) notify the Board office in writing, within 30 days of relocating the facility;
(ii) keep posted and visible to the public, the facility permit with the correct location address;
(C) Facilities exempted from the permit process:
(i) clinic or facility owned or operated by a person authorized to practice a profession by a health professional regulatory board, as defined in ORS 676.160;
(ii) a career school licensed under ORS 345.010 to 345.450; and
(iii) clinics of a board approved massage therapy program.
(D) Provide a finished lavatory that
(i) Is well maintained,
(ii) Provides a system for sanitary disposal of waste products,
(iii) Is capable of being fully closed and locked from the inside,
(iv) Supplies hot and cold running water,
(v) Is supplied with liquid soap and single use towels,
(vi) Is supplied with toilet paper at each toilet;
(E) Dispose of refuse sewage in a manner described by local and state law; and
(F) Follow applicable laws pertaining to public spas, pools, baths and showers.
(b) All treatment spaces must:
(A) Provide for client privacy, both in-house and on-site;
(B) Be designated as used only for massage at the time of services;
(C) Provide for sufficient heating, cooling and ventilation for client comfort; and
(D) Provide illumination during cleaning.
(c) The facility and treatment space must be:
(A) Cleaned regularly and kept free of clutter, garbage or rubbish;
(B) Maintained in a sanitary manner; and
(C) Maintained free from flies, insects, rodents and all other types of pests.
(2) Outcall/On-site
(a) Any temporary location where the LMT conducts massage and bodywork, the LMT must provide and utilize:
(A) Safe, sanitized and well-maintained equipment, tools and preparations;
(B) Sanitary linen practices; and
(C) Client privacy practices.

Stat. Auth.: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0012; MTB 2-1985, f. & ef. 1-23-85; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0030; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15

334-020-0015
Equipment
(1) All equipment and tools used in conjunction with a treatment on a client must:
(a) Be approved by a nationally recognized testing laboratory when applicable;
(b) Be maintained on a regular basis; and

(c) Be cleaned between each use.

(2) Cushions on tables and chairs, as well as bolster and pillows, must be covered with impervious material that is cleaned after every use.

(3) Topical preparations must be:

(a) Stored in a manner that maintains the integrity of the product and prevents spoilage and contamination;

(b) Dispensed in a manner that prevents contamination of the unused portion; and

(c) Dispensed in a manner that prevents cross-contamination between clients.

(4) Topical preparations such as ice cubes, plasters, herbal wraps and any other similar product that comes in contact with the client must be used only once and then disposed of in a sanitary manner.

Stat. Auth.: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0016; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0040; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

## 334-020-0050
## Linens

(1) When linens are used they must be routinely cleaned and stored in a manner which reasonably assures the sanitary use for each client.

(2) The use of soiled linens is prohibited.

(3) All soiled linens must be:

(a) immediately placed in a receptacle that closes and prevents cross-contamination;

(b) handled as little as possible;

(c) laundered in a manner that eliminates the risk of spreading parasites, communicable diseases and infections; and

(d) laundered in a manner that removes all residue of topical preparations.

Stat. Auth.: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0030; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0075; MTB 1-1990, f. & cert. ef. 4-20-90; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09

## 334-020-0055
## Communicable Disease Control

(1) All therapists must always practice communicable disease prevention and control.

(2) LMT's are required to follow the communicable disease guidelines as adopted by the Board.

Stat. Auth.: ORS 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Transferred from 333-035-0032; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1986, f. & ef. 1-29-86; Renumbered from 334-010-0080; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09

DIVISION 30
ETHICAL STANDARDS

334-030-0001
Preamble and Fundamental Canon

(1) In order to safeguard the health, safety and welfare of the citizens of Oregon and to establish and maintain a high standard of integrity and practice, the following Standards of Professional Conduct must be binding on every person holding a license to practice massage in this state.
(2) The Standards of Professional Conduct as promulgated herein are an exercise of the authority vested in the Board by acts of the legislature.
(3) All persons licensed under ORS 687 are charged with having knowledge of the existence of these Standards of Professional Conduct and must be deemed to be familiar with their provisions and to understand them. Such knowledge must encompass the understanding that the practice of massage is a privilege as opposed to a right.
(4) The Board may establish guidelines for ethical decision-making that are congruent with the standards of professional conduct promulgated by the Board. Such guidelines may be modified or revised at the Board's discretion. The Board must use current standards of practice and codes of ethics in the field of massage and bodywork as well as relevant statutes and regulations in establishing guidelines for ethical decision-making. A copy of any such guidelines or change must be published in the Board's newsletter and relevant professional publications in the field of massage and bodywork.
(5) All LMT's, in the fulfillment of their professional duties, must comply with the Standards and Objectives of Professional Conduct.

Stat. Auth.: ORS 687.011 & 687.081
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-030-0005
Standards and Objectives of Professional Conduct

(1) Standard I: Responsibility -- the relationship between the LMT and the profession. The LMT must:
  (a) Acquire, maintain and improve professional knowledge and competence using scientific, clinical, technical, psychosocial and governmental sources of information;
  (b) Act within the context of professional practice standards, codes of ethics, and relevant statutes and regulations;
  (c) Consider factors related to safety, effectiveness, and cost in planning and providing care and services;
  (d) Represent all aspects of his or her professional capabilities and services honestly and accurately;
  (e) Be accountable to his or her profession for establishing the quality and effectiveness of care and services, using their experience, professional education, and available resources;
  (f) Establish relationships with other massage, bodywork or healthcare professionals to collaborate with, and to offer or receive consultation in the provision of services; and
  (g) Be accountable for his or her actions and commitments and assume personal and professional responsibility to do his or her best.
(2) Standard II: Therapeutic Relationship -- the relationship between the LMT and the client. The LMT must:
  (a) Be accountable to his or her clients for the quality and effectiveness of care and services and for creating the basic conditions and boundaries necessary to foster safety and trust in the client-professional relationship;
  (b) Plan and provide care and services to the best of his or her abilities, in partnership with the client, based on client needs;
  (c) Ensure that their actions with a client are based on understanding and implementing the core values of caring, respect, compassion, appropriate boundaries, and appropriate use of personal power;
  (d) Develop alliances with the client, colleagues, other health care providers and the community to provide care and services that are safe, effective and appropriate to the client's needs;

(e) Develop and incorporate respect for diverse client backgrounds in regard to a client's clinical diagnosis, lifestyle, sexual orientation, race, gender, ethnicity, religion, age, and socioeconomic background when planning and providing services;
(f) Act as an advocate for client and client's needs;
(g) Support and respect the client's right and responsibility for self-determination in making health care choices; and
(h) Base decisions and actions on behalf of a client on sound ethical reasoning and current principles of practice.

(3) Standard III: Critical Reflection — the relationship of LMT to self. The LMT must:
(a) Use critical reflection in the assessment of professional and clinical situations for the development and provision of care and services;
(b) Evaluate the quality and effectiveness of his or her professional practice activities;
(c) Modify and adapt professional practice activities, consistent with current professional standards and practices, in response to client needs, advancing knowledge and research, and social expectations; and
(d) Be an autonomous agent in planning and providing care and services to individuals, groups and the community.

Stat. Auth.: ORS 687.081 & 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-030-0015 [Renumbered to 334-030-0002]
334-030-0025 [Renumbered to 334-040-0010]

DIVISION 40
COMPLAINTS AND DISCIPLINE

334-040-0001
Complaints
(1) Every licensee having information regarding a possible violation of the rules or statutes governing massage must cooperate with the Board in furnishing such information and must assist the Board, in order that appropriate investigative, corrective or disciplinary action may be taken.
(2) Anyone may submit a complaint against a licensed or unlicensed person. A complaint may be submitted anonymously. Complainants are kept confidential.
(3) A preliminary review of the complaint must be made by the Board or its representative, to assure there is sufficient evidence to justify proceeding to investigate and to determine if the allegations against the Respondent are such that, if proven, could result in disciplinary action being imposed by the Board.
(4) If the complaint is considered to be valid, the Board must then proceed as follows:
(a) The Board or its representative may notify the Respondent of the allegations by mail and request written response. Written responses must be received by the Board within two weeks after the notification was first mailed, unless an extension is authorized by the Board. In the event no written response is received the Board may evaluate the complaint using available evidence; or
(b) The Board or its representative may refer the complaint to the Board's designated authority for additional investigation.
(5) The Board must evaluate all evidence obtained; including any documents or comments received from the Respondent and the Board must proceed as follows:
(a) If the evidence is insufficient to justify further proceedings, the Complainant and Respondent must be so notified in writing.
(b) If the evidence is sufficient to justify further proceedings, the Board must consider and take appropriate action at a regular or special meeting.

Stat. Auth.: ORS 687.081 & 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12

334-040-0010
Discipline
The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons:
(1) Practicing massage or representing one's self as a massage therapist without a current active license issued by the Board;
(2) Knowingly or recklessly making any false statement to the Board;
(3) Has been the subject of disciplinary action as a licensed healthcare professional by this or any other state or territory of the United States or by a foreign country and the Board determines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or OAR Chapter 334;
(4) Suspension or revocation of a license to practice massage in another jurisdiction based upon acts by the licensee similar to acts described in this section;
(5) Knowingly or recklessly falsifying an application or continuing education statement or documentation;
(6) Conviction of a crime in any state or jurisdiction;
(7) The use of false, deceptive, or misleading advertising, which includes but is not limited to, advertising massage using the term “massage” or any other term that implies a massage technique or method in any private or public communication or publication by a person licensed or not licensed by the Board as a massage therapist;
(8) Allowing the use of a license by an unlicensed person;

(9) Presenting as one's own license, the license of another;
(10) Practicing massage under a false or assumed name without notification to the Board;
(11) Impersonating another massage therapist;
(12) Assisting, employing, or permitting an unlicensed person to practice massage;
(13) Practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive;
(14) Practicing or offering to practice massage beyond the scope permitted by law;
(15) The use of intoxicants, drugs, controlled substances, or mind altering substances to such an extent as to impair or potentially impair the licensee's abilities to perform professional duties in a safe manner;
(16) Practicing massage with a physical or mental impairment that renders the therapist unable or potentially unable to safely conduct the practice of massage;
(17) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board;
(18) Refusing to permit the Board or its representatives to inspect the business premises of the licensee during regular business hours;
(19) Failing to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to:
(a) Failure to furnish any requested papers or documents,
(b) Failure to provide in writing a full and complete explanation covering the matter contained in the complaint filed with the Board,
(c) Failure to respond to subpoenas issued by the Board whether or not the recipient is accused in the proceeding;
(20) Failing to comply with an order issued by the Board;
(21) Failure to obtain the required permits for facilities or in violation of OAR 334-010-0010.
(22) Failure to report to the Board information that a licensee has engaged in prohibited or unprofessional conduct as required in ORS 676.150.
(23) Unprofessional or dishonorable conduct which includes but is not limited to:
(a) Any conduct involving inappropriate physical contact or sexual misconduct which includes:
(A) Sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465;
(B) Sexual violation which is sex between the LMT and the client, whether initiated by the client or not, engaging in any conduct with a client that is sexual, or may be reasonably interpreted as sexual, including, but not limited to:
(i) Sexual intercourse;
(ii) Genital to genital contact;
(iii) Oral to genital contact; oral to anal contact;
(iv) Oral to oral contact except cardiopulmonary resuscitation; touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where the client has refused or withdrawn consent; or
(v) Encouraging the client to masturbate in the presence of the LMT or masturbation by the LMT while the client is present.
(C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to,
(i) Disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress instead of providing privacy for disrobing;
(ii) Subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn;
(iii) An examination or touching of genitals;
(iv) Inappropriate comments about or to the client, including but not limited to,

making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or LMT's sexual orientation and making a request to date;

(v) Initiation by the LMT of conversation regarding the sexual problems, preferences or fantasies of the LMT; or

(vi) Kissing.

(b) Violating the client's rights of privacy, and confidentiality.

(c) photographing or filming the body or any body part or pose of a client without consent.

(d) Failure to disclose or release information about a client if required by law or on written consent of client

(e) Intentionally harassing, abusing, or intimidating a client either physically or verbally.

(f) Any conduct or practice which could endanger the health or safety of a client or the public.

(g) Any conduct or practice which impairs the massage therapist's ability to safely and skillfully practice massage.

(h) Exercising undue influence on a client, including promotion or sale of services, goods, or appliances in such a manner as to exploit the client for the financial gain or self-gratification of the massage therapist.

(i) Routinely practicing in an incompetent manner.

(j) Conduct which would also constitute a violation of the Oregon Unlawful Trade Practices Act.

(k) Practicing a modality or technique without adequate training or licensure.

Stat. Auth.: ORS 687.081 & 687.121
Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Sections (6) - (20)(h) Renumbered from 334-030-0020; BMT 2-1998, f. & cert. ef. 7-22-98; Renumbered from 334-030-0025 by BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12; BMT 2-2012, f. 12-4-12, cert. ef. 1-1-13; BMT 1-2013, f. 5-31-13, cert. ef. 7-1-13; BMT 2-2013, f. 11-26-13, cert. ef. 1-1-14; BMT 1-2015, f. 3-12-15, cert. ef. 7-1-15