CHAPTER 30

Massage Therapy Practice

**SECTION 40-30-10. Purpose.**

 The General Assembly recognizes that the practice of massage therapy is potentially harmful to the public in that massage therapists must have a knowledge of anatomy, kinesiology, and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Massage therapy is therapeutic, and regulations are necessary to protect the public from unqualified massage therapists and unsafe establishments. It is, therefore, necessary in the interest of public health, safety, and welfare to regulate the practice of massage therapy and the operation of massage therapy establishments and sole practitioner establishments in this State. However, restrictions must be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market. Further, consumer protection for both health and economic matters must be afforded to the public through legal remedies provided for in this chapter.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1. Formerly Code 1976 § 40-30-20, renumbered and amended by 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-20. Application of chapter; conflict of laws.**

 Unless otherwise provided in this chapter, Article 1, Chapter 1, Title 40 applies to massage therapists, massage therapy establishments, and sole practitioner establishments licensed pursuant to this chapter; however, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, then the provisions of this chapter control.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-30. Definitions.**

 As used in this chapter:

 (1) "Approved massage therapy education program" means a supervised educational program in a school approved by the Commission on Higher Education. The program must meet minimum qualifications, including course content as approved by the board in regulation.

 (2) "Approved massage therapy school" means a facility that offers an educational program that meets minimum requirements for training and curriculum as determined by the board pursuant to this chapter and related regulations.

 (3) "Board" means the South Carolina Massage Therapy Board under the administration of the department.

 (4) "Client" means a person who receives massage therapy from a licensed massage therapist in exchange for compensation.

 (5) "Client-therapist relationship" means a relationship between a licensed massage therapist and a client in which the licensed massage therapist owes a continuing duty to the client to render massage therapy services consistent with the licensed massage therapist's training, experience, and scope of practice.

 (6) "Currently enrolled student" means a student who is enrolled and actively participating in an approved massage therapy school or an approved massage therapy education program.

 (7) "Department" means the Department of Labor, Licensing and Regulation.

 (8) "Director" means the Director of the Department of Labor, Licensing and Regulation.

 (9) "Entity" means a sole proprietorship, partnership, limited liability partnership, limited liability company, or other business entity or association as approved by the board.

 (10) "Hydrotherapy" means the use of water, vapor, or ice for treatment of superficial tissues.

 (11) "Licensed massage therapy supervisor" means a licensed massage therapist who has been in good standing for at least two years and who supervises a currently enrolled student. The licensed massage therapy supervisor shall be on premises observing the student and shall be available to the student for consultation and instruction.

 (12) "Licensure" means the procedure by which an individual applies to the department and is granted approval to practice massage therapy, or the procedure by which an establishment applies to the department and is granted approval to operate as a massage therapy establishment or a sole practitioner establishment.

 (13) "Massage device" means a mechanical device that mimics or enhances the action of the hands by means of vibration.

 (14) "Massage therapist" means an individual licensed as required by this chapter, who administers massage therapy for compensation.

 (15) "Massage therapy" means the application of a system of structured touch to the soft tissues of the human body with the hand, foot, knee, arm, or elbow, whether or not the structured touch is aided by hydrotherapy, thermal therapy, a massage therapy device, or application to the human body of an herbal preparation. Massage therapy includes, but is not limited to, bodywork modalities as approved by the board.

 (16) "Massage therapy establishment" means an entity with a physical site or premise, licensed as required by this chapter, in which licensed massage therapists are employees or contractors practicing massage therapy on clients.

 (17) "Sole practitioner establishment" means a licensed massage therapist who is licensed pursuant to this chapter, who is not an employee or contractor of the sole practitioner establishment, and who provides massage therapy to clients at a specific location including, but not limited to, a rental space, home office space, or outcall or onsite space.

 (18) "Thermal therapy" means the use of ice or a heat lamp or moist heat on superficial tissues.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1; 2013 Act No. 41, § 1, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-40. Board of Massage Therapy.**

 (A) There is created the Board of Massage Therapy under the administration of the department. The board shall be composed of seven members appointed by the Governor, upon the advice and consent of the Senate. Six members must be licensed massage therapists in good standing and must have been engaged in the practice of massage therapy for no fewer than three consecutive years before appointment to the board. One member must represent the public at large and must not have a financial interest, direct or indirect, in the profession or practice of massage therapy. A board member must be a high school graduate or shall have received a graduate equivalency diploma and must be a citizen of the United States and a resident of this State for no fewer than five years. Nominations for appointment to the board may be submitted to the Governor from any individual, group, or association.

 (B) Board members serve a term of four years and until their successors are appointed and qualify. A vacancy on the board must be filled in the manner of the original appointment for the remainder of the unexpired term.

 (C) Board members must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions.

 (D) The Governor may remove a member of the board in accordance with Section 1-3-240.

 (E) The board must meet at least twice a year.

 (F) Any business conducted by the board must be conducted by a majority vote of the entire membership of the board, reduced by any vacancies existing at the time.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1; 1999 Act No. 26, § 3; 2008 Act No. 273, § 6; 2013 Act No. 41, § 2, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-50. Duties of board.**

 (A) The department shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board, pursuant to Section 40-1-50.

 (B) The board shall administer and enforce this chapter and related regulations. In addition to the powers and duties enumerated in Section 40-1-70, the board's powers and duties include, but are not limited to:

 (1) advising and recommending action to the department in the development of statutory revisions, legislation, and any other matter related to the provisions of this chapter;

 (2) recommending to the department regulations necessary to carry out the provisions of this chapter including, but not limited to, establishing a code of ethics to govern the conduct and practices of individuals and establishments licensed pursuant to this chapter;

 (3) determining the standards and qualifications for licensure pursuant to this chapter;

 (4) conducting hearings:

 (a) on alleged violations of this chapter and regulations promulgated pursuant to this chapter and to recommend discipline for individuals and establishments in any manner provided for in this chapter; or

 (b) on licensure determinations; and

 (5) providing recommendations to the South Carolina Commission on Higher Education concerning minimum qualifications for approved massage therapy schools and approved massage therapy education programs.

 (C) The board has jurisdiction over the actions committed or omitted by current and former licensed massage therapists as provided in Section 40-1-115.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1; 2013 Act No. 41, § 2, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-60. Preparation and publication of roster.**

 (A) The department shall prepare and publish a current roster on its website, updated annually, containing:

 (1) the names and places of business of individuals licensed pursuant to this chapter; and

 (2) the names of establishments licensed pursuant to this chapter and the names of their owners.

 (B) A copy of the roster must be provided upon request and the payment of a fee.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1; 2013 Act No. 41, § 2, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-80. Fees.**

 The department shall charge and collect the following fees:

 (1) massage therapist initial license application fee, not to exceed one hundred fifty dollars;

 (2) massage therapist endorsement application fee, not to exceed two hundred dollars;

 (3) biennial massage therapist licensure renewal fee, not to exceed seventy-five dollars;

 (4) reinstatement application fee from lapsed status of a massage therapist license, not to exceed two hundred ten dollars;

 (5) renewal fee for inactive status of a massage therapist license, not to exceed one hundred fifty dollars;

 (6) continuing education course provider fee, not to exceed one hundred dollars and continuing education course provider renewal fee, not to exceed fifty dollars;

 (7) massage therapy establishment initial license application fee for each location, not to exceed one hundred fifty dollars;

 (8) biennial massage therapy establishment license renewal fee for each location, not to exceed one hundred dollars;

 (9) massage therapy establishment license reinstatement fee from lapsed status for each location, not to exceed two hundred fifty dollars;

 (10) sole practitioner establishment initial license application fee, not to exceed seventy-five dollars;

 (11) biennial sole practitioner establishment license renewal fee, not to exceed fifty dollars; and

 (12) sole practitioner establishment license reinstatement fee from lapsed status, not to exceed one hundred fifty dollars.

HISTORY: 1986 Act No. 467, § 3; 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-90. Construction of chapter; practitioners licensed in other jurisdictions; massage therapy establishment license.**

 (A) This chapter shall not be construed to apply to or restrict:

 (1) a currently enrolled student from engaging in the practice of massage therapy, provided that the practice, conduct, activities, or services are part of a required course of study and that the currently enrolled student clearly identifies himself as a student. A currently enrolled student shall not be compensated for work experience and must be supervised on site by a licensed massage therapy supervisor;

 (2) student clinics operated by an approved massage therapy school or an approved massage therapy education program;

 (3) an unlicensed individual from providing massage therapy services related to the domestic care of any family member or household member, as long as the individual does not offer, hold out, or claim to be a massage therapist and does not receive compensation for the massage therapy services;

 (4) an individual currently licensed and in good standing to practice massage therapy in another jurisdiction from engaging in the practice of massage therapy in this State on a temporary basis during a professional event for a period of no more than thirty days, or no longer than the time period of the event, whichever is less, provided that:

 (a) the individual must submit a written application prior to engaging in the temporary practice of massage therapy pursuant to this item, in a manner prescribed by the board. Upon the board's approval, the individual may engage in the practice of massage therapy on a temporary basis; and

 (b) any temporary practice beyond thirty days requires a massage therapist license, pursuant to this chapter; or

 (5) an individual currently licensed and in good standing to practice massage therapy in another jurisdiction from engaging in the practice of massage therapy if the individual is responding to a disaster or emergency declared by the appropriate authority or the Governor of this State. An individual practicing massage therapy pursuant to this item must provide notice to the board in a manner prescribed by the board prior to providing massage therapy services in this State and is only eligible to practice during the time of the declared emergency.

 (B) Individuals engaging in the practice of massage therapy in this State under subsection (A)(4) or (5) are deemed to have submitted to the jurisdiction of the board and are bound by the applicable laws and regulations of this State.

 (C) While a practitioner licensed in another jurisdiction may participate in a continuing education program in this State, he is not authorized to practice massage therapy on the general public without proper approval or licensure from the board.

 (D) The following facilities and practices that employ licensed massage therapists, or that engage licensed massage therapists on an independent contractor basis, are not required to obtain a massage therapy establishment license, or a sole practitioner establishment license:

 (1) hospitals and long-term health care facilities that are subject to a licensing regime, a supervising authority, or an agency with jurisdiction over the hospital's or facility's operation or licensing;

 (2) a chiropractor licensed by the South Carolina Board of Chiropractic Examiners;

 (3) a medical doctor or an osteopath licensed by the South Carolina Board of Medical Examiners; and

 (4) a physical therapist licensed by the South Carolina Board of Physical Therapy.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-100. Practice without license.**

 (A) No person may practice or offer to practice massage therapy without a license issued in accordance with this chapter; however, a person licensed by the State under this title or any other provision of law whose scope of practice overlaps with the practice of massage therapy is not also required to be licensed under this chapter unless the person holds himself out to be a massage therapist.

 (B) Unless otherwise exempt from licensure, no person or entity may open, operate, maintain, use, or advertise as a massage therapy establishment or a sole practitioner establishment without obtaining a massage therapist license, massage therapy establishment license, or sole practitioner establishment license, as applicable, pursuant to this chapter.

 (C) Nothing in this chapter may be construed to authorize an individual or establishment licensed under this chapter to practice physical therapy or chiropractic or to utilize chiropractic therapeutic modalities except where the scope of practice for massage therapy, as provided for in this chapter, overlaps with the practice of physical therapy or chiropractic.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-110. Qualifications for license.**

 (A) To be licensed as a massage therapist, an individual must:

 (1) be at least eighteen years of age and have either received a high school diploma or graduate equivalency diploma, or completed a program that has been approved by the board to satisfy this requirement;

 (2) have successfully completed:

 (a) six hundred fifty hours of an approved massage therapy education program at an approved massage therapy school having a curriculum that includes course content approved by the board; or

 (b) an approved massage therapy education program that is substantially equivalent to the education required in subitem (a);

 (3) have successfully passed the Federation of State Massage Therapy Board (FSMTB) or any other board-approved examination; and

 (4) speak the English language as a native language or demonstrate an effective proficiency in the English language, in the manner prescribed by and to the satisfaction of the board. If English is not an individual's native language, or if an individual does not demonstrate an effective proficiency of the English language in a manner prescribed by and to the satisfaction of the board, then the board may require proof that the applicant has received a passing score from the Test of English as a Foreign Language (TOEFL), Test of Spoken English (TSE) offered by TOEFL/TSE Services, or another service approved by the board. The costs of the TOEFL, TSE, or other service approved by the board shall be paid by the applicant.

 (B) If an individual qualifies to be licensed as a massage therapist under subsection (A), then the individual must submit:

 (1) a completed application on a form prescribed by the board, accompanied by a two inch by two inch current photograph, and all applicable fees;

 (2) an official transcript demonstrating successful completion of the education required pursuant to subsection (A) and proof of passing the FSMTB or other board-approved examination; and

 (3) evidence of an effective proficiency in the English language, if applicable.

 (C) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure to practice massage therapy, the board shall require a state criminal history records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain fingerprints for certification purposes and for notification to the board regarding criminal charges. The costs of conducting a state criminal history records check and national criminal records check shall be paid by the applicant.

 (D) Information received pursuant to this section shall be kept confidential, except that information relied upon in denying licensure may be disclosed as necessary to support administrative action.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 4, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-113. Application for licensure as a massage therapy or sole practitioner establishment.**

 (A) To apply for licensure as a massage therapy establishment or a sole practitioner establishment, an applicant must submit:

 (1) a completed application on a form prescribed by the board, accompanied by all applicable fees for each massage therapy establishment or sole practitioner establishment location;

 (2) the name, address, and telephone number of each owner of the massage therapy establishment or sole practitioner establishment; and

 (3) the physical address, mailing address, and telephone number of the premises of the massage therapy establishment or sole practitioner establishment.

 (B) A massage therapy establishment or sole practitioner establishment must be organized or registered under applicable South Carolina law as an entity, as defined in this chapter.

 (C) Upon the board's receipt and approval of the information required by this section, the department shall conduct a pre-licensing inspection of the proposed establishment to determine whether the establishment may be licensed as a massage therapy establishment or a sole practitioner establishment. The department shall provide its determination on a form approved by the board.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-117. Requirements for granting license by endorsement to massage therapist licensed in another state.**

 The board may grant a license by endorsement to a massage therapist who holds an active massage therapist license and is in good standing in another state, the District of Columbia, or any other United States territory if the board determines that the standards for licensure are at least substantially equivalent to the licensing standards provided for in this chapter. The board may require the applicant to provide additional information or meet certain requirements provided for in this chapter as it deems necessary for issuing a license by endorsement. A National Certification Board for Therapeutic Massage and Bodywork examination taken prior to November 1, 2014, shall be acceptable.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-120. Employment of massage therapists with active licenses in good standing; operation in a residence; revocation of license; regulations.**

 (A) A licensed establishment shall only employ or contract with a massage therapist holding an active license in good standing in this State to perform massage therapy.

 (B) A licensed establishment may operate in the residence of a licensed massage therapist in accordance with procedures approved by the board.

 (C) If an establishment's license is revoked, then no new license may be issued to operate on the same premises for one year after the date of revocation.

 (D) The board may promulgate regulations to establish additional requirements and prohibitions regarding the operation of massage therapy establishments and sole practitioner establishments.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-130. Examination.**

 (A) An applicant who fails an examination pursuant to Section 40-30-110 may be reexamined as provided by the board.

 (B) Upon an applicant's successful completion of an examination, the board shall be notified by the examination provider.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-140. Issuance of license.**

 (A) If an applicant satisfies the licensure requirements and pays the applicable fees, as provided in this chapter, then the board shall issue the appropriate license to the applicant. A license issued pursuant to this chapter is not transferable.

 (B) A person licensed as a massage therapist under this chapter shall display his original license with a two inch by two inch current photo in a prominent and conspicuous place that is viewable by the general public in the massage therapy establishment or sole practitioner establishment. If a massage therapist provides massage therapy services outside of the massage therapy establishment or sole practitioner establishment, then the massage therapist must carry his original licensing card so that it is available at all times.

 (C) A massage therapy establishment or sole practitioner establishment licensed pursuant to this chapter shall display its current license in a prominent and conspicuous place that is viewable to the general public.

 (1) Establishment licenses are valid only for the owners named on the licensure applications. If there is a new owner or an ownership change, then the new owner must apply for an establishment license, and all applicable requirements of this chapter must be met.

 (2) Establishment licenses are valid only for the location named on the initial and renewal licensure applications. If there is an address change, then the owner must notify the department within fifteen business days and must apply for an establishment license, and all applicable requirements of this chapter must be met.

 (3) Establishment licenses are valid only for the name of the establishment provided on the licensure and renewal applications. If there is an establishment name change, then the owner must notify the department within fifteen business days of this change. No department inspection is required.

 (D) A licensee must include the licensee's license number in any advertisement for the licensee's services.

 (E) Only a person licensed under this chapter may use the title of "massage therapist". No person or entity shall use the words "massage therapy", "bodywork therapy", "massage-bodywork therapist", "massage therapist", the acronym "MT", "bodywork therapist", "massage", or "licensed massage therapist", the acronym "LMT", or any other words identified by the board in regulation unless the person or entity is licensed pursuant to this chapter.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-150. Inspection of massage therapy and sole practitioner establishments.**

 (A) The department may periodically inspect massage therapy establishments and sole practitioner establishments during business hours, without prior notice. The department shall document inspections on a form approved by the board.

 (B) Such inspections may include, but are not limited to, confirmation that a site is being utilized for massage therapy in accordance with its license and a determination as to whether the establishment is in compliance with this chapter and other applicable laws and regulations.

 (C) Failure to cooperate with departmental inspections may lead to disciplinary action, cease and desist orders, or temporary suspension pursuant to this chapter and the Administrative Procedures Act.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-160. Violations of this chapter; administrative citations; cease and desist orders; appeal.**

 (A) The board may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an establishment or individual, including unlicensed persons, for violations of this chapter or Chapter 1, Title 40 and related regulations.

 (B) For each violation, separate citations may be issued, and separate administrative penalties may be assessed; however, no more than five thousand dollars in administrative penalties may be assessed against an establishment or an individual, including an unlicensed practice, per offense. Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

 (C) An entity or individual that has been assessed administrative penalties may appeal those penalties to the board within ten days of receipt of a citation. If an appeal is filed, then the department shall schedule a hearing before the board, which shall make a determination on the matter. If no appeal is filed, then the citation is considered a final order, and the administrative penalties must be paid within thirty days of receipt of the citation or other written demand.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-170. Omitted.**

HISTORY: Former Section, titled Publication of roster, had the following history: 1996 Act No. 387, § 1. Omitted by 2022 Act No. 151, § 2, eff May 13, 2023.

**SECTION 40-30-180. Renewal of license.**

 (A) A person or entity holding a massage therapist license, massage therapy establishment license, or sole practitioner establishment license, pursuant to this chapter, must biennially satisfy the following license renewal requirements:

 (1) pay a renewal fee in the amount, at the time, and in the manner provided by the board;

 (2) complete continuing education requirements prescribed by the board in accordance with this chapter, if applicable, and submit evidence of compliance on a form prescribed by the board. The submitted continuing education compliance reports may be subject to random audits by the board. A licensee that does not comply with a continuing education audit request or that provides an incomplete compliance report may be subject to disciplinary action.

 (B)(1) A license automatically reverts to lapsed status if the licensee fails to timely comply with the renewal requirements of this chapter. The license may be reinstated only upon application and payment of any fees and after having met any additional requirements which the board may establish including, but not limited to, an updated background check and continuing education requirements.

 (2) If a massage therapy establishment license or a sole practitioner establishment license lapses, then the establishment must pass an inspection by the department prior to licensure reinstatement. The establishment licensee may also be subject to additional requirements, as determined by the board.

 (3) A lapsed license status does not stay any disciplinary actions for violations that occurred during the course of an active license.

 (4) An individual or establishment may not provide massage therapy services while a license is in lapsed status.

 (C)(1) A license that has lapsed for more than one year shall be automatically canceled if the licensee has not submitted an application for reinstatement.

 (2) If a license is canceled pursuant to this section, then an individual or entity may apply for a new license in accordance with this chapter and related regulations.

HISTORY: 1996 Act No. 387, § 1; 1999 Act No. 26, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-185. Inactive status.**

 (A) A licensee may provide a written request to the board to place a license in inactive status. If a license is placed in inactive status, then a licensee is not authorized to practice massage therapy in this State until the license is reinstated to active status.

 (B) A licensee holding a license in inactive status must biennially renew the license to retain inactive status. A license may remain in inactive status for an indefinite time.

 (C) A license may be reactivated from inactive status in a manner provided by the board.

 (D) Inactive status does not stay any disciplinary actions for violations that occurred during the course of an active license.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-190. Promulgation of regulations.**

 The board shall promulgate regulations establishing the following:

 (1) continuing education requirements and compliance procedures:

 (a) for license renewal or reinstatement, not to exceed twelve hours per biennium;

 (b) for license reactivation, not to exceed six hours for each year the license is inactive;

 (2) criteria for the evaluation and approval of continuing education hours, programs, or courses including, but not limited to, correspondence courses and electronic courses.

HISTORY: 1996 Act No. 387, § 1; 1999 Act No. 26, § 2; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-200. Investigation of complaints.**

 (A) The department shall investigate complaints and violations as provided in this chapter and Chapter 1, Title 40.

 (B) The presiding officer of the board may administer oaths if taking testimony concerning any matters pertaining to the business or duties of the board. If after investigation it appears that probable cause exists for a hearing, a time and a place must be set by the board for a hearing to determine whether disciplinary action must be taken against the licensee. Notice must be given and the hearing conducted in accordance with the Administrative Procedures Act.

 (C) A person aggrieved by a final action of the board may seek an appeal of the decision in accordance with Section 40-1-160.

 (D) Service of a notice of appeal does not stay the board's or the department's decision pending completion of the appellate process.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 5, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-220. Cease and desist orders; temporary restraining orders.**

 (A) If the board or the department has reason to believe that an individual or an entity is violating or intends to violate a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, the board may order an individual or an entity to immediately cease and desist from engaging in the conduct. If the individual is practicing massage therapy or an entity is operating a massage therapy establishment or sole practitioner establishment without being licensed pursuant to this chapter, then the board or the department also may apply to an administrative law judge for a temporary restraining order prohibiting the unlawful practice. The board or the department may also seek from an administrative law judge other equitable relief to enjoin the violation or intended violation of this chapter or a regulation promulgated pursuant to this chapter.

 (B) A board member, the director of the department, or any other employee of the department may not be held liable for damages resulting from a wrongful temporary restraining order.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-230. Grounds for denial of licensure to massage therapist applicant.**

 (A) In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant for a massage therapist license or may take disciplinary action against an individual who:

 (1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in applying for licensure pursuant to this chapter;

 (2) has had his license to practice massage therapy from another state or jurisdiction canceled, revoked, suspended, or otherwise restricted;

 (3) has violated a provision of this chapter, a regulation promulgated pursuant to this chapter, or an order of the department or the board;

 (4) has intentionally or knowingly, directly or indirectly, aided or abetted in the violation or conspiracy to violate this chapter or a regulation promulgated pursuant to this chapter;

 (5) has intentionally used a fraudulent statement in a document connected to the practice of massage therapy or has made false, deceptive, or misleading statements in the practice of massage therapy or in advertising;

 (6) has obtained fees or assisted in obtaining fees under intentionally fraudulent circumstances;

 (7) lacks the professional or ethical competence to practice massage therapy;

 (8) has been convicted of or has pled guilty to or nolo contendere to solicitation or prostitution, assault and battery, or other like offenses; to money laundering or other like offense; to a crime that directly relates to the practice or ability to practice massage therapy; to a crime involving moral turpitude; or to a violent crime as defined in Section 16-1-60, a felony that directly relates to the practice or ability to practice massage therapy during the previous five years, or a felony that reasonably relates to the ability to practice massage therapy and for which an essential element is dishonesty during the previous seven years;

 (9) has practiced massage therapy while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice massage therapy;

 (10) has sustained a physical or mental disability, as determined by a physician that renders further practice by the licensee dangerous to the public;

 (11) has engaged in or has assisted another to engage in unlicensed practice as provided in this chapter;

 (12) has presented another licensee's license as his own or has falsely impersonated another license holder;

 (13) has allowed the use of a license by an unlicensed individual or entity; or

 (14) has used or attempted to use a license that has been revoked, suspended, or otherwise restricted from active licensure.

 (B) The board may not deny an individual a license under this chapter solely because of a prior criminal conviction unless the criminal conviction directly relates to the practice of massage therapy. However, the board may refuse to issue a license under this chapter based upon all information available, including the applicant's record of prior convictions, if it finds that the applicant is unfit or unsuited to engage in the practice of massage therapy, pursuant to Section 40-1-140.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-235. Grounds for denial of licensure to massage therapy or sole practitioner establishment applicants.**

 In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant for a massage therapy establishment or sole practitioner establishment license or may take disciplinary action against an entity licensed as a massage therapy establishment or sole practitioner establishment that:

 (1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in applying for a license pursuant to this chapter;

 (2) has had a license, permit, certificate, or registration from South Carolina or another state or jurisdiction denied, canceled, revoked, suspended, or otherwise restricted;

 (3) has violated a provision of this chapter, a regulation promulgated pursuant to this chapter, or an order of the department or the board;

 (4) has intentionally or knowingly, directly or indirectly, aided or abetted in the violation of or a conspiracy to violate this chapter or a regulation promulgated pursuant to this chapter;

 (5) has intentionally used a fraudulent statement in a document connected to the conduct of its establishment, or has made false, deceptive, or misleading statements in the conduct of its establishment or in related advertising;

 (6) has obtained fees or assisted in obtaining fees under intentionally fraudulent circumstances;

 (7) has engaged in unlicensed practice;

 (8) has allowed an individual, employee, or independent contractor to practice massage therapy on the premises of the establishment without an active license to practice massage therapy pursuant to this chapter;

 (9) has presented as its own license the license of another establishment;

 (10) has allowed the use of a license by an unlicensed establishment;

 (11) has falsely impersonated another license holder; or

 (12) has used or has attempted to use a license that has been revoked, suspended, or otherwise restricted from active licensure.

HISTORY: 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-240. Mental or physical examination; records; drug testing.**

 If investigating grounds for taking disciplinary action based upon an alcohol or drug addiction, as provided for in Section 40-30-230(A)(9), or a physical or mental disability, as provided for in Section 40-30-230(A)(10), the board upon reasonable grounds may:

 (1) require an applicant or licensee to submit to a mental or physical examination including a drug test by authorized practitioners designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege pursuant to a contrary rule of law. An individual who accepts the privilege of practicing massage therapy in this State or who files an application for a license to practice massage therapy in this State is deemed to have consented to submit to a mental or physical examination including a drug test and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that the results constitute a privileged communication. If an applicant or licensee fails to submit to an examination when requested by the board pursuant to this section, unless the failure was due to circumstances beyond the individual's control, then the board shall enter an order automatically denying or suspending the license pending compliance and further order of the board. An applicant or licensee who is prohibited from practicing pursuant to this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of massage therapy with reasonable skill and safety to clients;

 (2) obtain records of an examination required by item (1) specifically relating to the mental or physical condition of an applicant or licensee who is the subject of an investigation and these records are admissible in a hearing before the board, notwithstanding any other provision of law. An individual who accepts the privilege of practicing massage therapy in this State or who files an application to practice massage therapy in this State is deemed to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that the records constitute a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when requested by the board pursuant to this section, unless the failure was due to circumstances beyond the individual's control, then the board shall enter an order automatically denying or suspending the license pending compliance and further order of the board. An applicant or licensee who is prohibited pursuant to this section from practicing massage therapy must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of massage therapy with reasonable skill and safety to clients.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-250. Discipline.**

 (A) Upon a determination by the board that one or more of the grounds for discipline exists, in addition to sanctions provided in Section 40-1-120, the board may:

 (1) issue a nondisciplinary letter of caution;

 (2) issue a private reprimand;

 (3) issue a public reprimand;

 (4) impose a fine not to exceed five thousand dollars per violation;

 (5) place the licensee on probation, restrict the license, or suspend the license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension, respectively including, but not limited to, satisfactory completion of additional education of a supervisory period or of continuing education programs as may be specified; or

 (6) temporarily or permanently revoke the license.

 (B) A decision by the board to discipline a licensee as authorized pursuant to this section must be made by a majority vote of a quorum of the entire membership of the board, reduced by any vacancies existing at the time.

 (C) Except for a private reprimand, a final order of the board pursuant to this section is public information.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-260. Voluntary surrender of license.**

 (A) A licensee who is under investigation for misconduct, pursuant to Section 40-30-230 or Section 40-30-235, voluntarily may surrender its license to the board, invalidating the license at the time it is surrendered. An individual or establishment that voluntarily surrenders a license may not practice as a massage therapist or operate as a massage therapy establishment or sole practitioner establishment until the board reinstates the license. An individual or an establishment practicing as a massage therapist or operating as a massage therapy establishment or sole practitioner establishment during the period of voluntary license surrender is deemed an unlicensed practitioner or establishment and is subject to the applicable penalties.

 (B) Surrendering a license must not be considered an admission of guilt in a proceeding held pursuant to this chapter. However, surrendering a license does not preclude the board from imposing conditions on the acceptance of the proffered license or from taking disciplinary action against the licensee.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-270. Omitted.**

HISTORY: Former Section, titled Appeal, had the following history: 1996 Act No. 387, § 1; 2013 Act No. 41, § 6, eff June 7, 2013. Omitted by 2022 Act No. 151, § 2, eff May 13, 2023.

**SECTION 40-30-280. Service of notice upon nonresident.**

 (A) Service of any notice provided for by law upon a nonresident licensed under this chapter or upon a resident who having been licensed, subsequently becomes a nonresident or after due diligence cannot be found at his usual abode or place of business in this State, may be made by leaving with the director of the department or his designee a copy of the notice and any accompanying documents. A copy of the notice, accompanying documents, and a certified copy of the service on the director or his designee must be mailed to the licensee at his last known address, return receipt requested. The director or his designee shall keep a record of the day of the service of the notice, and the return receipt must be attached to and made a part of the return of service of the notice by the department.

 (B) A continuance may be given in any hearing under this chapter for which notice is given pursuant to this section so as to afford the licensee a reasonable opportunity to appear and be heard.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-290. Costs and fines.**

 (A) All costs and fines imposed under Section 40-30-250 or Section 40-30-160 are due and payable as required by the board. Failure to pay costs and fines may result in action pursuant to Section 40-1-180.

 (B) A licensee found to be in violation of this chapter or the regulations promulgated under this chapter may be required to pay costs associated with the investigation of its case, pursuant to Section 40-1-170.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-300. Privileged communications.**

 (A) Every communication, whether oral or written, made by or on behalf of an individual or an establishment, to the director, his designee, or the board, whether by way of complaint or testimony, is privileged, and no action or proceeding, civil or criminal, may be brought against the individual or establishment, by or on whose behalf the communication is made, except upon proof that the communication was made with malice.

 (B) Investigations conducted under this chapter are confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

 (C) Nothing in this chapter may be construed to prohibit the respondent or the respondent's legal counsel from exercising the respondent's constitutional right of due process under the law including, but not limited to, the respondent's right to have normal access to the charges and evidence filed against the respondent.

HISTORY: 1996 Act No. 387, § 1; 2013 Act No. 41, § 7, eff June 7, 2013; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.

**SECTION 40-30-310. Omitted.**

HISTORY: Former Section, titled Violation of chapter; civil penalties, had the following history: 1996 Act No. 387, § 1; 2013 Act No. 41, § 7, eff June 7, 2013. Omitted by 2022 Act No. 151, § 2, eff May 13, 2023.

**SECTION 40-30-320. Instruction of massage therapy.**

 Nothing in this chapter may be construed to prevent the teaching of massage therapy in this State at an approved massage therapy school or in an approved massage therapy education program.

HISTORY: 1996 Act No. 387, § 1; 2022 Act No. 151 (S.227), § 2, eff May 13, 2023.