

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MESSAGE THERAPISTS
PART 1 GENERAL PROVISIONS

16.7.1.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board.
[16.7.1.1 NMAC - Rp, 16.7.1.1 NMAC, 11/15/2019]

16.7.1.2 SCOPE: This part applies to the board, licensees, registrants, applicants, and the general public.
[16.7.1.2 NMAC - Rp, 16.7.1.2 NMAC, 11/15/2019]

16.7.1.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Subsections E and F of Section 61-12C-7, Subsection A of Section 61-12C-8 and Section 61-12C-11 NMSA 1978.
[16.7.1.3 NMAC - Rp, 16.7.1.3 NMAC, 11/15/2019]

16.7.1.4 DURATION: Permanent.
[16.7.1.4 NMAC - Rp, 16.7.1.4 NMAC, 11/15/2019]

16.7.1.5 EFFECTIVE DATE: November 15, 2019, unless a later date is cited at the end of a section.
[16.7.1.5 NMAC - Rp, 16.7.1.5 NMAC, 11/15/2019]

16.7.1.6 OBJECTIVE: This part is to establish the requirements for display of licenses and certificates, name change, address change, verification of licensure procedures, board meetings, and inspection of public records.
[16.7.1.6 NMAC - Rp, 16.7.1.6 NMAC, 11/15/2019]

16.7.1.7 DEFINITIONS:

- A. “Academic hour”** means a credit hour or semester hour taken in an academic setting that is equivalent to 15 class or contact hours.
- B. “Active status”** means a license that is current and authorized the licensee or registrant to perform the practice or service authorized by the license or registration.
- C. “Board”** means the New Mexico board of massage therapy, hereinafter referred to as the board.
- D. “Board administrator” or “administrator”** means the staff person assigned certain express or implied executive and administrative function of the board as defined by board regulations or as required to carry out the provisions of the act.
- E. “Class hour” or “contact hour”** means no less than 50 minutes of any one-clock hour during which the student/massage therapist participates in a learning activity in the physical presence and under the tutelage of an instructor.
- F. “Client”** means a recipient of “professional services” or a massage therapy student. In the case of individuals not able to give legal consent their legal guardian shall be the client for decision making purposes.
- G. “Clinical practicum”** means that a student is providing hands-on massage therapy to members of the public under the supervision of a massage therapy instructor. That instructor must be physically present on the premises for advice and assistance. The student must be enrolled at a registered massage therapy school or being trained by a massage therapy instructor. Clinical practicum does not include classroom practice.
- H. “Compensation”** means a gain, whether monetary, trade or barter, for massage therapy services.
- I. “Complainant”** means the complaining party of a complaint filed against a licensee(s), registrant(s), or applicant(s) for licensure or registration.
- J. “Complaint”** means a sworn written complaint.
- K. “Confidential information”** means personally identifiable information revealed by a client.
- L. “Continuing Education Provider”** means:
 - (1) an individual who was an active New Mexico registered independent massage therapy instructor on February 4, 2019;
 - (2) a massage therapy school regulated by the requisite regulatory agency where the massage therapy school is located;
 - (3) a national or international professional association for massage therapists;
 - (4) an individual or an organization approved by a national or international massage therapy continuing education approval agency;

- (5) a health care professional organization; or
- (6) an accredited post-secondary educational institution.

M. “Curriculum” means the subject that will be taught, including the knowledge, skills, and abilities, as required in the course syllabus, that students will acquire from the course.

N. “Examining agency” means the national certification board for therapeutic massage and bodywork (NCBTMB) or the federation of state massage therapy boards (FSMTB), or other examination or certification agency approved by the board.

O. “Expired status” means a license that has not been reactivated from inactive status and can no longer be reactivated.

P. “Grace period” refers to the 60 day period following the renewal date when a massage therapist, licensee, or massage school registrant may renew a license or registration (that was not renewed timely) with a penalty fee. A licensee or registrant may still practice or provide the services authorized by the license or registration during those 60 days.

Q. “Grace period status” refers to the license or registration that has not been renewed by the renewal date assigned to it, but has not yet been placed on inactive status.

R. “Hands-On” refers to a massage modality or technique that involves palpation or soft tissue manipulation.

S. “Inactive status” occurs when a massage therapist’s license is not renewed by the end of the grace period allowed for in the licensee’s renewal cycle. A license can also be placed on inactive status for a period of two years. If the inactive license is not reactivated within those two years, it automatically expires, lapses and becomes null and void.

T. “Inactive status period” refers to a period not to exceed two years and only applies to massage therapists. Massage therapists may not practice during their inactive status period.

U. “Jurisprudence” means an examination covering the Massage Therapy Practice Act and the board’s rules and regulations, 16.7 NMAC.

V. “Lapsed status” means the license or registration is null and void, is no longer valid and cannot be reactivated.

W. “Licensee” means a person whose professional conduct is subject to regulation by the board.

X. “Manual” means by use of hands or body.

Y. “Massage therapist” means a person licensed to practice massage therapy pursuant to the New Mexico Massage Therapy Practice Act, Subsection E of Section 61-12C-E NMSA 1978.

Z. “Massage therapy” means the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law.

AA. “Massage Therapy Practice Act” refers to Sections 61-12C-1 NMSA 1978 et seq. (as amended through 2019).

BB. “Massage therapy school” means a facility providing an educational program in massage therapy.

CC. “MBLEx” means the massage and bodywork licensing examination, as offered by the federation of state massage therapy boards “FSMTB”.

DD. “Mechanical” means any tool or device that mimics or enhances the actions possible by the hands.

EE. “National certification examination” means the national certification examination for therapeutic massage and bodywork (NCETMB) or the national certification examination for therapeutic massage (NCETM).

FF. “Notice of contemplated action” means the administrative process used by the board for a licensee, registrant or applicant for licensure or registration to be afforded notice and an opportunity to be heard in a formal hearing before the board, before the board has authority to take any action which would result in denial, suspension, revocation, restriction, probation, monitoring, censuring, etc., of a license, registration, application or licensure or registration.

GG. “Null and void status” means the license or registration is no longer valid and cannot be reactivated.

HH. “Official examination results” means official pass/fail reports that the applicant has made arrangements to be sent directly to the board by the national certification board for therapeutic massage and bodywork or the federation of state massage therapy boards.

II. “Official transcripts” means those transcripts provided to the board office by the massage therapy school where the applicant received training.

JJ. “Permanent license” means a license issued once the applicant has met all the requirements for licensure as set forth in this regulation, but which must be kept updated by meeting the board's renewal and continuing education requirements, and which is subject to disciplinary action by the board for violations of the board's statute or regulations, up to and including revocation.

KK. “Professional massage therapy experience” means lawful massage therapy services performed for compensation.

LL. “Professional relationship” means a business relationship between a licensee and a client for the purpose of the client obtaining the licensee's “professional services.”

MM. “Professional services” means all actions of the licensee in the context of a “professional relationship” with a client.

NN. “Related hands-on modalities” means manual therapies, not directly defined as massage therapy.

OO. “Renew” means to begin again after an interval of time; to make valid again for a further period.

PP. “Renewal date” means the deadline date upon which the license or registration must be made valid again for another period of time.

QQ. “Respondent” means a licensee, registrant or applicant for licensure or registration who is governed under the Massage Therapy Practice Act, and who is the subject of a complaint.

RR. “Sexual conduct” includes, but is not limited to, sexual intercourse, indecent exposure, sexual assault, non-therapeutic anogenital contact or any offer or agreement to engage in any such activities.

SS. “Soft tissue” includes skin, adipose, muscle and myofascial tissues.

TT. “Student” means an individual currently enrolled in or attending class(es) in a massage therapy program under the jurisdiction of the New Mexico state board of massage therapy.

UU. “Syllabus” means a detailed outline of a course including at least: the name of the course, course description, goals and objectives, required prerequisites, number of educational hours, detailed timeline, provisions for make-up work, required text, and reading resources, instructional materials and handouts, requirements for successful completion and method of evaluation.

VV. “Teaching assistant” means an individual who assists an instructor in class. Any instruction to students must be performed while under the direct supervision of the instructor.

WW. “Temporary license” means a license issued one-time only for a maximum period of three months to practice massage therapy while the application for permanent license is in process, and which may only be issued to applicants who have never sat for a licensing examination.

XX. “Treatment of soft tissues” is the repetitive manipulation of soft tissues from more than one anatomical point by manual or mechanical means to accomplish homeostasis or pain relief in the tissues being deformed.

YY. “Uniform Licensing Act” refers to Sections 61-1-1 NMSA 1978 et seq. (as amended through 2003).

[16.7.1.7 NMAC - Rp, 16.7.1.7 NMAC, 11/15/2019]

16.7.1.8 SCOPE OF PRACTICE: As defined by the Massage Therapy Practice Act, the practice of massage therapy consists of the assessment of the soft tissue structures of the body; the treatment and prevention of physical dysfunction and pain of soft tissue; and joint movement within normal physiologic range of motion to relieve pain or to develop, maintain, rehabilitate or augment physical function.

[16.7.1.8 NMAC - Rp, 16.7.1.8 NMAC, 11/15/2019]

16.7.1.9 MASSAGE THERAPY LICENSE AND REGISTRATION:

A. License/registration display:

(1) A current license/registration must be displayed and must be visible to the public in the principal place of employment or business of the massage therapist or registrant;

(2) A licensee/registrant must practice massage therapy or provide massage therapy training under the name inscribed on the license or registration;

B. Duplicate/replacement license or wall certificate:

(1) The board will issue a duplicate/replacement license or upon receipt of a written request which states the reason for such duplication or replacement (for example: it was lost, stolen, destroyed; or name was legally changed). A replacement license is available for a fee as defined in Subsection D 16.7.3.8 NMAC; and

(2) The records of the board are to reflect that a duplicate/replacement license or wall certificate was issued.

C. Name change:

(1) Any name change requires that a replacement license or registration be issued. The board will issue a replacement license or registration upon receipt of a copy of the legal document (*only* marriage certificate, divorce decree or court order accepted). A change of name form is available from the board's website or from the board office; and

(2) A licensee or registrant not wishing to request a replacement license or registration must continue to use the name as initially issued on the license or registration, until the requirements of Paragraph 1 of Subsection C of 16.7.1.8 NMAC, above have been met.

D. Address change: Licenses and registrations are mailed to the license or registration holder's last mailing address as noted in the records of the board. Therefore, licensees and registrants shall maintain a current mailing address with the board by immediately notifying the board office in writing whenever a change of an address has occurred. A change of address form is available from the board's website or from the board office.

E. License and registration property of the board: All licenses and registrations are the property of the board and will immediately be returned to the board upon request.

[16.7.1.9 NMAC - Rp, 16.7.1.9 NMAC, 11/15/2019]

16.7.1.10 INSPECTION OF BOARD RECORDS:

A. The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-16 NMSA 1978.

B. The board administrator is the custodian of the board's records.

C. Any one may examine all public records in the board's custody, provided the person gives advance notice to the board administrator in accordance with the Inspection of Public Records Act.

D. The board may provide copies of public records upon request and upon payment of a copying fee in accordance with Subsection D of 16.7.3.8 NMAC, or as may be ordered by a court of competent jurisdiction.

E. Only the board's staff is authorized to remove original board documents from the board's office for the purpose of attending board or committee meetings or other board business.

F. The board office is not obligated to create lists, labels or any other materials that are not already in existence.

[16.7.1.10 NMAC - Rp, 16.7.1.10 NMAC, 11/15/2019]

16.7.1.11 PUBLIC RECORDS: Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of a public record as of the time of filing with or by the board.

[16.7.1.11 NMAC - Rp, 16.7.1.11 NMAC, 11/15/2019]

16.7.1.12 NON-PUBLIC RECORDS:

A. Except as provided herein and except as otherwise provided by law, the following records will be considered confidential and are not subject to public inspection:

(1) letters of reference;

(2) medical reports or records of chemical dependency, physical or mental examinations or treatment;

(3) examination scores; the contents of any examination used to test for an individual's knowledge or competence;

(4) investigative files; and

(5) matters of opinion.

B. Only board members and board staff may have access to non-public records, unless approved by the board attorney or ordered by a court of competent jurisdiction.

[16.7.1.12 NMAC - Rp, 16.7.1.12 NMAC, 11/15/2019]

16.7.1.13 TELEPHONE CONFERENCES: If it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate through telephone conference. Each member participating by telephone conference must be identified when speaking; all participants must be able to hear each other at the same time; and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting.

[16.7.1.13 NMAC - Rp, 16.7.1.13 NMAC, 11/15/2019]

HISTORY OF 16.7.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 92-1, Definitions, 1/17/1992.

Rule 92-1, Definitions, 9/9/1992.

Regulation 1, Definitions, 1/5/1994.

History of Repealed Material: 16.7.1 NMAC - Massage Therapists - General Provisions filed 5/29/2001, Repealed effective 11/15/2019.

Other History:

16.7.1 NMAC, Massage Therapists - General Provisions filed 5/29/2001 was replaced by 16.4.1 NMAC, 16.7.1 NMAC, Massage Therapists - General Provisions effective 11/15/2019.