

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 7 MESSAGE THERAPISTS
PART 2 PROFESSIONAL CONDUCT

16.7.2.1 ISSUING AGENCY: Regulation and Licensing Department, Massage Therapy Board.
[16.7.2.1 NMAC - Rp 16.7.2.1 NMAC, 11/15/2019]

16.7.2.2 SCOPE: This part applies to the conduct of licensees and applicants.
[16.7.2.2 NMAC - Rp 16.7.2.2 NMAC, 11/15/2019]

16.7.2.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Massage Therapy Practice Act, Subsection J of Section 61-12C-8 NMSA 1978.
[16.7.2.3 NMAC - Rp 16.7.2.3 NMAC, 11/15/2019]

16.7.2.4 DURATION: Permanent.
[16.7.2.4 NMAC - Rp 16.7.2.4 NMAC, 11/15/2019]

16.7.2.5 EFFECTIVE DATE: November 15, 2019, unless a different date is cited at the end of a section.
[16.7.2.5 NMAC - Rp 16.7.2.5 NMAC, 11/15/2019]

16.7.2.6 OBJECTIVE: This part is to establish the standards against which the required professional conduct of a massage therapist is measured. Each licensee will be governed by this part whenever providing massage therapy services in a professional context. A violation of this part is sufficient reason for disciplinary action pursuant to the Massage Therapy Practice Act under the Uniform Licensing Act.
[16.7.2.6 NMAC - Rp 16.7.2.6 NMAC, 11/15/2019]

16.7.2.7 DEFINITIONS: (Refer to 16.7.17 NMAC).
[16.7.2.7 NMAC - Rp 16.7.2.7 NMAC, 11/15/2019]

16.7.2.8 CODE OF PROFESSIONAL CONDUCT:

A. Competence: Each licensee and applicant shall:
 (1) limit practice and instruction to the areas of competence in which proficiency has been gained through education, training, and experience and refer clients to other health professionals when appropriate;
 (2) acknowledge the limitations of and contraindications to massage therapy and will not encourage unnecessary or unjustified treatment; and
 (3) not delegate professional responsibilities to a person who is not qualified or licensed to perform them;

B. Dual relationship: It is presumed that a power imbalance exists in professional relationships between licensees and clients. Therefore each licensee, in interacting with a client or former client to whom the licensee has at anytime within the previous three months rendered massage therapy or instruction, shall not engage in romantic or sexual conduct.

C. Client welfare: Each licensee and applicant shall:
 (1) conduct their business and professional activities with honesty and integrity;
 (2) obtain prior informed consent of the client regarding draping and treatment to ensure the safety, comfort and privacy of the client;
 (3) provide privacy for the client while the client is dressing or undressing;
 (4) modify or terminate treatment at the client's request, regardless of prior consent;
 (5) refuse to treat any person or part of the body for just and reasonable cause;
 (6) not undertake or continue treatment with a client when the licensee is impaired due to mental, emotional or physiologic conditions including substance or alcohol abuse;
 (7) maintain clean equipment, linens, clothing and work areas;
 (8) not engage in any verbally or physically abusive behavior; or
 (9) take unfair advantage of the client for financial gain.

D. Confidentiality of clients: Each licensee shall safeguard confidential information of the client, unless disclosure is required by law, court order, authorized by the client or absolutely necessary for the protection of the public.

E. Representation of services: Each licensee and applicant shall:

- (1) disclose to the client the schedule of fees for services prior to treatment;
- (2) not misrepresent directly or by implication of his professional qualifications such as type of licensure, education, experience, or areas of competence;
- (3) not falsify professional records;
- (4) include in any advertisement for massage;
 - (a) his full name as licensed with the board and license number; and
 - (b) the designation or abbreviation as a "licensed massage therapist" or "LMT and "registered massage therapy school" or "RMTS".
- (5) When offering gratuitous services or discounts in connection with professional services, each licensee must clearly and conspicuously state whether or not additional charges may be incurred by related services and the possible range of such additional charges; and
- (6) not advertise massage therapy services or instruction, which contains:
 - (a) a false, fraudulent, misleading, deceptive statement; or
 - (b) suggestion of sexual stimulation.

F. Violation of the law: Each licensee and applicant shall *not*:

- (1) violate any applicable statute or administrative regulation governing the practice of massage therapy;
- (2) use fraud, misrepresentation, or deception in obtaining a massage therapy license or renewal, in passing a massage therapy licensing examination, in assisting another to obtain a massage therapy license or to pass a massage therapy licensing examination, in providing massage therapy services, or in conducting any other activity related to the practice of massage therapy; or
- (3) be convicted of any crime that substantially relates to the qualifications, functions, or duties of a massage therapist.

G. Resolving professional conduct issues: Each licensee and applicant shall:

- (1) have an obligation to be familiar with this part. Lack of knowledge of professional conduct standard is not itself a defense to a charge of unethical conduct;
- (2) cooperate with investigations, proceedings, and resulting requirements of this part.

Failure to cooperate is itself an ethics violation.
[16.7.2.8 NMAC - Rp 16.7.2.8 NMAC, 11/15/2019]

HISTORY OF 16.7.2 NMAC: [RESERVED]

History of Repealed Material: 16.7.2 NMAC - Massage Therapists - Professional Conduct filed 5/29/2001, Repealed effective 11/15/2019.

Other History:

16.7.2 NMAC - Massage Therapists - Professional Conduct filed 5/29/2001 was replaced by 16.7.2 NMAC - Massage Therapists - Professional Conduct filed 5/29/2001 effective 11/15/2019.