

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes, but is not limited to, the imposition of a part of the licensee’s body upon a part of the client’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client’s body into or near the genital, anal or other opening of the other person’s body. “Sexual contact” does not include the touching of a client’s body that is necessary during the performance of a generally accepted and recognized massage and bodywork therapy procedure.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, which occurs in connection with a licensee’s activities or role as a provider of massage and bodywork therapy services that is unwelcome or offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student, or supervisee whether or not such individual is in a subordinate position to the licensee.

“Spouse” means the husband, wife, civil union partner, domestic partner or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of this definition, a long-term committed relationship means a relationship that is at least six months in duration.

(c) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless more than three months has elapsed since the last massage and bodywork therapy was rendered.

(d) A licensee shall not seek or solicit sexual contact with a client with whom he or she has a client-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a person with whom the licensee has a client-therapist relationship, unless that discussion is directly related to a proper massage and bodywork therapy purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.

(f) A licensee shall provide privacy and therapy conditions that prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect client privacy.

(g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.

(h) A licensee shall not engage in any other activity that would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or which is for the sexual arousal, or sexual gratification, of the licensee or client or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering massage or bodywork therapy to a spouse, providing that the rendering of such massage or bodywork therapy is consistent with accepted standards of massage or bodywork therapy and that the performance of therapy is not utilized to exploit the spouse for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the licensee; or
2. The licensee is in love with or held affection for the client.

13:37A-3.6 Change in address of record or name

(a) A licensee shall notify the Board in writing within 30 days of changes to:

1. The licensee’s address of record. Service to the address of record registered with the Board shall constitute effective notice pursuant to N.J.A.C. 13:45-3.2; or
2. The licensee’s legal name. Notification of a name change shall include a copy of the marriage license or a court order that authorized the legal name change.

13:37A-3.7 Patient acknowledgement

Prior to providing an initial service to a client, a licensee shall have the client read and sign a patient acknowledgement form, which includes the following statement:

“Massage and bodywork therapy practices are designed to promote and maintain the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability. If I experience any pain or discomfort during this session, I will immediately inform the therapist so that the pressure and/or manipulations may be adjusted to my level of comfort. Because massage and bodywork therapy may be contraindicated due to certain medical conditions, I affirm that I have informed the therapist of all my known medical conditions and will keep the therapist updated as to any changes in my medical condition.”

SUBCHAPTER 4. CONTINUING EDUCATION

13:37A-4.1 Continuing education

(a) Upon biennial license renewal, licensees shall attest that they have completed courses of continuing education of the types and number of credit hours specified in (b), (c), (d) and (e) below and N.J.A.C. 13:37A-4.2. Falsification of any information submitted on the renewal application may require an appearance before the Board and may subject a licensee to penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 25.

(b) Each applicant for biennial license renewal shall be required to complete during the preceding biennial period 20 credit hours of continuing education related to the practice of massage and bodywork therapy, except as provided in (d) below. These 20 credit hours shall include at least two hours in ethics. Courses that are related solely to the business practices of licensees and courses in practices in which licensees are prohibited from engaging pursuant to N.J.A.C. 13:37A-3.1(b) shall not satisfy continuing education requirements.

(c) Licensees shall be limited to completing a total of six credit hours through courses presented on-line or through DVDs.

(d) A licensee who is licensed in the second year of a biennial renewal period shall be required to complete 10 credit hours of continuing education, of which at least two hours shall be in ethics.

(e) A licensee who completes more than the minimum continuing education credit hours set forth in (b) or (d) above in any biennial registration period may carry no more than 18 of the additional credit hours into a succeeding biennial period. A licensee who carries over credits into a biennial period shall complete, during that biennial period, at least two hours of ethics.

13:37A-4.2 Continuing education programs

(a) A licensee may obtain continuing education credit hours from the following:

1. Successful completion of continuing education courses or programs related to the practice of massage and bodywork therapy, one credit hour for each hour of instruction. Courses and programs shall be approved by, or offered by providers approved by:

- i. NCBTMB;
- ii. NCCAOM;
- iii. The American Massage Therapy Association (AMTA);
- iv. The American Organization for Bodywork Therapies of Asia (AOBTA);

v. The Association of Bodywork and Massage Professionals (ABMP);

vi. The American Nurses Credentialing Center (ANCC);

vii. The American Polarity Therapy Association (APTA);

viii. The American Physical Therapy Association (APTA);

ix. FMSTB;

x. The International Association of Structural Integrators (IASI);

xi. The American Medical Association (AMA);

xii. The Ida P. Rolf Research Foundation; or

xiii. A state board of massage, massage and bodywork, physical therapy, or chiropractic;

2. Successful completion of a course, related to the practice of massage and bodywork therapy, given by a school, college, or university, one credit hour for each hour of instruction. A school, college, or university shall be:

i. Accredited by the New Jersey Department of Education;

ii. Approved by the New Jersey Department of Labor and Workforce Development;

iii. Approved by the New Jersey Commission on Higher Education; or

iv. Approved by an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education, the New Jersey Department of Labor and Workforce Development, or the New Jersey Commission on Higher Education;

3. Teaching a new continuing education program related to massage and bodywork therapy that is approved pursuant to (a)1 or 2 above. As used in this paragraph, "new" means that the licensee has never taught or developed curriculum for that course or program in any educational setting; one credit hour for each hour taught;

4. Authorship of a published textbook or a chapter of a textbook directly related to the practice of massage and bodywork therapy; four credit hours for each chapter up to 20 credit hours;

5. Authorship of a published article, which has been referred through peer review, related to the practice of massage and bodywork therapy, in a medical or health related journal; four credit hours; and

6. Presenting a new seminar or lecture to professional peers, provided the seminar or lecture is at least one hour long; as used in this paragraph, "new" means that the

licensee has never presented the seminar or lecture before; one credit hour for each hour of presentation.

13:37A-4.3 Continuing education audits; records of continuing education

(a) The Board shall perform audits on randomly selected licensees to determine compliance with continuing education requirements.

(b) A licensee shall maintain the following documentation for a period of four years after completion of the credit hours and shall submit such documentation to the Board upon request:

1. For attendance at programs or courses: a certificate of completion from the sponsor;
2. For publication of textbook or article: the published item, including the date of publication;
3. For developing curriculum or teaching a course or program: documentation, including a copy of the curriculum, location, date, and time of course, duration of course by hour, and letter from sponsor confirming that the licensee developed or taught the course or program; and
4. For presenting a lecture or seminar: documentation including the location, date, and duration of the lecture or seminar.

13:37A-4.4 Waiver of continuing education requirements

(a) The Board may waive the continuing education requirements of this subchapter on an individual basis for reasons of hardship, such as severe illness, disability, or military service.

1. A licensee seeking a waiver of the continuing education requirements shall apply to the Board in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Board with supplemental materials that support the request for waiver.
2. A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver continue(s) into the next biennial period, a licensee shall apply to the Board for the renewal of such waiver for the new biennial period.

13:37A-4.5 Additional continuing education requirements

(a) The Board may direct or order a licensee to complete continuing education credit hours:

1. As part of a disciplinary or remedial measure in addition to the required 20 hours of continuing education; or

2. To correct a deficiency in the licensee’s continuing education requirements.

(b) Any continuing education credit hours completed by the licensee in compliance with an order or directive from the Board as set forth in (a) above shall not be used to satisfy the minimum continuing education requirements as set forth in this subchapter.

SUBCHAPTER 5. BUSINESS PRACTICES

13:37A-5.1 Advertising and solicitation practices

(a) A licensee may provide information to the public by advertising in print or electronic media pursuant to this section.

(b) The following words and terms, when used in this subchapter shall have the following meanings:

“Advertisement” means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media that directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services from a licensee.

“Electronic media” means radio, telephone, television, and internet.

“Print media” means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, business cards, matchbook covers, and other similar items, documents, or comparable publications.

(c) A licensee who engages in the use of advertising that contains any of the following shall be deemed to be engaged in professional misconduct:

1. Any statement, claim, or format which is false, fraudulent, misleading, or deceptive;
2. Any promotion of a professional service for which:
 - i. The licensee has not received education or training to perform; or
 - ii. The licensee claims to have developed, unless the licensee developed such service and it is taught, or has been taught, in a course offered by a provider approved by the NCBTMB, NCCAOM, American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), FSMTB, American Nurse Credentialing Center (ANCC), American Organization for Bodywork Therapies of Asia (AOBTA), American Polarity Therapy Association (APTA), American Physical Therapy Association (APTA), American Medical Association (AMA), International Association of Structural Integrators (IASI), Ida P. Rolf Research Foundation, a state board of massage, a state board of massage and

bodywork, a state board of physical therapy, or a state board of chiropractic; or

3. The communication of any fact, data, or information that may personally identify a client without that client's signed written permission obtained in advance.

(d) The Board may require a licensee to substantiate the truthfulness of any assertion or representation in an advertisement. Failure of a licensee to provide factual substantiation to support a representation or assertion when requested shall be deemed professional misconduct.

(e) All advertisements shall include:

1. The licensee's first name, or first initial of the first name, and the licensee's full last name;
2. The licensee's address or telephone number; and
3. The terms "N.J. Lic. #" followed by the licensee's license number.

(f) If an entity advertises under a professional name the entity must identify at least one licensee's first name, or first initial of the first name, and the licensee's full last name, license number and telephone or address.

(g) A video or audio tape, or other permanent recording for an internet advertisement, which may include screen shots of a webpage, of every advertisement communicated by electronic media shall be retained by the licensee and shall be made available for review upon request by the Board or its designee. A copy of any advertisement appearing in the print media shall also be retained by the licensee and made available for review. The tapes and print media copies required to be retained under this subsection shall be kept for a minimum period of three years from the date of the last authorized publication or dissemination of the advertisement.

(h) Licensees who are on inactive status pursuant to N.J.A.C. 13:37A-2.3(h) shall not hold themselves out to the public as State-licensed massage and bodywork therapists.

13:37A-5.2 Recordkeeping

(a) Licensees shall make contemporaneous, permanent entries into client records that shall accurately reflect the massage and bodywork services rendered. Client records shall be maintained for a period of seven years from the date of the most recent entry. The client record shall contain, at a minimum:

1. Intake record;
2. The dates of each service;
3. Reasons for visits, including a physician's prescription, if there is one;

4. The name of the licensee who provided services if there is more than one licensee practicing at the office;

5. Modalities used and areas of focus on the body; and

6. Any referral to another healthcare professional.

(b) A licensee may make corrections and/or additions to a client record, provided that each change is clearly identified as such, dated and initialed by the licensee.

13:37A-5.3 Client access to records; confidentiality

(a) Licensees shall provide access to client records to a client or an authorized representative in accordance with the following:

1. No later than 30 days from receipt of a written request from a client or an authorized representative, the licensee shall provide a copy of the client record, and/or billing records as may be requested;

2. The licensee may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less; and

3. If the client or a subsequent treating health care professional is unable to read the client record, because it is illegible, the licensee, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the licensee shall also provide a translation.

(b) Licensees shall maintain the confidentiality of client records, except that:

1. The licensee shall release client records as directed by a subpoena issued by the Board or the State Attorney General, or by a demand for a statement in writing under oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full client names; and

2. The licensee shall release information as required by statute or rule.

(c) Where the client has requested the release of all or a portion of a client record to a specified individual or entity, in order to protect the confidentiality of the records the licensee shall:

1. Secure and maintain a current written authorization, bearing the signature of the client or an authorized representative;

2. Assure that the scope of the release is consistent with the request;

3. Forward the records to the attention of the specific individual identified in the request; and

4. Mark the material "Confidential."