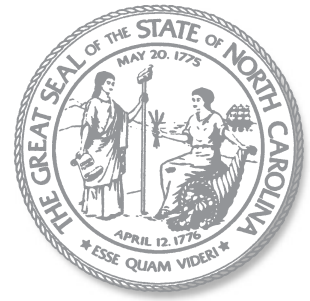


# NORTH CAROLINA BOARD of MASSAGE & BODYWORK THERAPY

*Regulating the practice of massage and bodywork therapy,  
and its educational institutions, for the protection of the public*



NEWSLETTER

JANUARY 2004

MESSAGE FROM THE BOARD CHAIR

## The Importance of Effective Disciplinary Sanctions

### History

In years past, the practice of massage and bodywork therapy was often associated with what have been commonly called *massage parlors* or *adult entertainment establishments*. As a



ROBERT M. WARD

result, overly broad regulations were enacted by city and county governments to control the various illegal activities operating under these labels.

Even today, many such local ordinances remain that unnecessarily regulate the legitimate practice of massage and bodywork therapy. Since illicit activities will likely continue, some local governments in North Carolina (*which include 100 counties and 547 cities*) will insist on retaining and enforcing these ordinances.

As a response, I would suggest that a priority of this Board is to demonstrate to these local governments that we can effectively regulate the profession of massage and bodywork therapy – and that we will impose appropriate disciplinary sanctions for violations of the Practice Act and the Rules of the Board (Rules). Because we are saddled with this

*(continued on page 2)*

## Board Gains New Enforcement Tools

*General Assembly grants authority to assess civil penalties*

Beginning August 1, 2003, persons who violate provisions of the North Carolina Massage and Bodywork Therapy Practice Act and the Rules of the Board may face civil penalties of up to \$1000 per infraction.

During the 2003 Session of the General Assembly, the North Carolina Board of Massage and Bodywork Therapy sought an amendment to the Practice Act which would authorize the Board to assess such civil penalties and to recover the costs of disciplinary actions.

Recognizing the Board's mission of public protection, the General Assembly passed a bill containing the necessary language, which was signed into law by Governor Easley. Civil penalties, or *finer*, as they're more commonly known, will

be an important asset in the Board's enforcement of the provisions of the Practice Act and the Rules. All things considered, fines are effective tools for deterring undesirable behavior.

At its October 17, 2003 meeting, the Board adopted a **Schedule of Civil Penalties**, which is listed on pages 6-7. This is organized according to specific violations, with maximum penalties set forth for each type of violation. As you can see, there are separate categories of penalties for: 1) Licensed Massage and Bodywork Therapists, 2) Board-approved schools, and 3) unlicensed individuals who are practicing, advertising, or promoting massage and bodywork therapy without a license.

*(continued on page 7)*

## Professional Ethics:

*Board adopts new continuing ed  
requirement for license renewal*

While all health care practices have the potential for ethical problems, the field of massage and bodywork therapy is uniquely susceptible to issues of unprofessional conduct. This may be due to the intimate nature of the treatment setting and the work itself, combined with the fact that ethics education has not been consistent across the spectrum of entry-level training programs. Indeed, some Licensed Massage and Bodywork Therapists who "grandfathered" in may never have had formal training in ethics.

Faced with an escalating level of

complaints against licensees and findings of actual ethical violations, the Board has adopted a new standard for **continuing education in professional ethics as a requirement for license renewal**.

The new ethics requirement is **mandatory** for those whose licenses expire on **December 31, 2005** – and is **highly recommended** for those whose licenses expire on **December 31, 2004**.

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## MESSAGE FROM THE CHAIR

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adverse historical precedent, disciplinary sanctions are probably more important to the massage and bodywork therapy profession than any other licensed profession. And because of its history, I believe the effective imposition of disciplinary sanctions will play a key role in the survival, success and standing of massage therapy as a health care profession.

The purpose of this message is to urge all massage and bodywork therapists – along with school owners, administrators, instructors, students, private citizens and everyone else involved in or being served by the massage and bodywork therapy profession – to join with the Board in its mission of protecting our citizens by reporting instances of improper and illegal conduct.

### The Mission of Public Protection

The Board's mission was established by the State when it enacted the North Carolina Massage and Bodywork Therapy Practice Act in 1998. The introduction to this law states:

*The improper practice of massage and bodywork therapy is potentially harmful to the public ... Mandatory licensure of those engaged in the practice of massage and bodywork therapy is necessary to ensure minimum standards of competency and to protect the public health, safety, and welfare.*

Together, the Practice Act and Rules provide a comprehensive structure for the regulation of massage and bodywork therapists and for schools that provide entry-level training. The disciplinary provisions of these regulations are indeed consistent with our mission. Therefore, systematic and vigorous enforcement of these laws can protect the public from harm. However, the laws and rules are not self-executing. It seems to me that our regulatory scheme is largely one of self-governance, which means that the principal stakeholders in the massage therapy profession must be responsible for reporting violations of the Practice Act and the Rules to the Board.

### Who Is Affected

In North Carolina today, there are more than 3900 Licensed Massage and Bodywork Therapists and 26 Board-approved massage and bodywork therapy schools. All are subject to disciplinary sanc-

tions, which may range from a letter of reprimand to outright revocation.

In addition, the Practice Act states that it is a Class 1 misdemeanor for a person not licensed or exempted by the Board to engage in any of the following:

- (1) *Practice of massage and bodywork therapy.*
- (2) *Advertising, representing, or holding out himself or herself to others to be a massage and bodywork therapist.*
- (3) *Using any title descriptive of any branch of massage and bodywork therapy to describe his or her practice.*

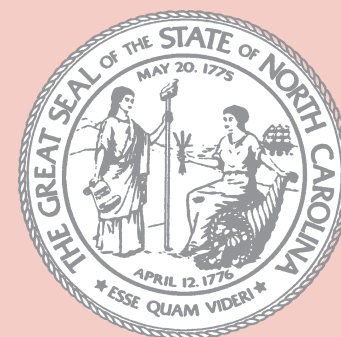
State law provides for fines ranging up to \$1,000 and imprisonment up to 120 days for these Class 1 misdemeanors, depending upon the level of prior convictions. Additionally, the General Assembly, during its 2003 Session, amended the Practice Act to authorize the Board to assess civil penalties up to \$1,000 for violations of the Practice Act or Rules (*see cover story on this subject*).

### The Ongoing Commitment

The Board has vigorously and routinely issued cease and desist letters to those persons who practice without a license and has applied the full range of disciplinary sanctions to both licensees and Board-approved schools. The current list of these actions is published in this newsletter.

Timely, appropriate discipline, fairly and consistently imposed for violations of the Practice Act and Rules, benefits both the individual massage and bodywork therapist and the owners, directors and administrators of massage therapy schools in their collective efforts to achieve the professional recognition they have worked for and deserve.

Finally, please remember that the function of taking disciplinary action for violations of the Practice Act and Rules is not for the sake of punishment, but for the protection of the public. As we all know, there are many eyes upon the massage and bodywork therapy profession because of some unfortunate earlier associations with improper activities. Because of this we must make a concerted effort to overcome this image. This is an honorable profession and is accordingly worthy of appropriate recognition and status. A continuing vigilance by all of us will be required to keep our house in order – and effective, consistent and fairly applied discipline will be necessary to achieve this goal.



### Official Newsletter of the

## NORTH CAROLINA BOARD of MASSAGE & BODYWORK THERAPY

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# F R E Q U E N T L Y   A S K E D QUESTIONS



If you have a question regarding the laws and rules, standards of practice, code of ethics, license renewal, or other topics related to your work as a Licensed Massage and Bodywork Therapist, please direct it in writing to the Board Office.

**Why did my initial license period last less than two years? And because it was less, why do I still have to pay the entire fee and take the full 25 hours of continuing education?**

The licensure period is based on the calendar year, beginning January 1. Depending on when an individual is granted initial licensure, their first period of licensure may be up to three months *longer* or nine months *shorter* than the exact two year term. The Board has determined that pro-rated fees and renewal requirements for the initial period of licensure are too difficult to administer, and would strain the Board's resources.

**Why is it so hard to get through to the Board office? The line is always busy.**

The Board operates as a self-funded regulatory agency with limited resources. On some days, there is a much higher volume of calls and e-mails to the Board office than can be answered. All messages are returned as promptly as possible, so your patience is greatly appreciated.

Board Administrator Lynn Bannon reports that the answers to many of the questions that she regularly receives from applicants and licensees can be readily found in the informational materials provided by the Board and/or the Board Website. Please read the materials first, then call if you still need assistance.

**How come you can only take 12 hours of continuing education via distance learning? Why not all 25 hours?**

In establishing the requirements for license renewal, the Board endeavored to allow for flexibility in how licensees can obtain continuing education, while honoring the tradition and effectiveness of face-to-face learning opportunities.

**What happens to me if I am an LMBT and I know of someone practicing outside the Laws and Rules and I don't turn them in?**

**How come my name can't be kept confidential if I turn someone in for disciplinary reasons? I'm concerned about possible repercussions.**

These two questions are related. As you know, every licensee is required by the Code of Ethics to "Inform the Board of any violation of the Practice Act or Rules and Regulations." This is not optional, and failure to report such activity *is itself* a Rules violation, which may result in disciplinary action and fines. At the same time, the Board realizes that this is a sensitive area, and licensees may be concerned about the implications of reporting violations to the Board.

The Board requires all persons filing complaints to list in writing their name, address and phone number to allow the Board to investigate and verify the actions being brought to the Board's attention. This is for the protection of the licensee, as well as the public. As much as possible, the identity of the person reporting is kept confidential, but a licensee accused of wrongdoing is entitled to respond to the allegations. The details of an investigation only come into the public arena in the case of a formal disciplinary hearing. Most matters are resolved informally, without such public proceedings.

Reporting unlawful activity is essential in preserving the integrity of the massage and bodywork therapy profession. The Board relies on the community of licensees, approved schools, and the general public to provide such information.

**I have been to a Board meeting and I find it hard to sit through because I can't say anything even when I have something that would be helpful to the discussion. Why is this so limited?**

The Board is an agency of state government, and its meetings are official business. As such, its structure and mission differs from meetings of a profes-

sional association or affinity group, where individual participation is often sought. Since the Board only meets six times a year, the demands of conducting business in an efficient manner preclude the Board from receiving spontaneous input from the public during meetings.

A person who wishes to have an issue placed on the agenda for discussion at a public meeting must submit it to the Board Office at least 30 days in advance of the meeting for consideration. The Board also allows a 15-minute public comment period at each meeting. Persons who wish to make brief comment to the Board during this time must sign up at the beginning of a meeting.

**Why can't I grandfather in any longer?**

"Grandfathering" is a limited feature of newly enacted licensure laws to allow those existing practitioners in a defined occupation to be granted a license who may not meet all of the licensure requirements. "Grandfathering" was established by the General Assembly as part of the NC Massage and Bodywork Therapy Practice Act. The Board's authority to grant such licenses expired on November 1, 2000, and cannot be changed except through act of the legislature.

All applicants for licensure must now meet the requirements set forth in G.S. 90-629.

**I plan to move to NC in the near future, and I'm licensed in my state. Can I get a NC license via reciprocity?**

The short answer is no.

The reciprocity clause in the Practice Act says that the Board "may not grant reciprocity if the state in which the applicant is licensed has not granted a similar reciprocity to licensees in this State." In light of this statute, the Board has attempted to establish reciprocity agreements with other state boards which regulate massage therapy. Unfortunately, such efforts have not been successful, owing to the differences in the specific standards for regulation by which each state is governed.

# Disciplinary Actions of the Board

from February 1 – December 31, 2003

The Board is authorized to investigate complaints and take a range of disciplinary actions, as set forth in Section .0900 of the Rules. The following is a summary of such actions taken by the Board since February 1, 2003:

## CEASE AND DESIST ORDERS

Cease and Desist Orders have been served on those who were advertising illegally or were practicing massage and bodywork therapy in North Carolina without a valid license.

### Orders have been sent to the following businesses:

Aveda Day Spa . . . . . Charlotte  
Belk 's. . . . . Charlotte  
Carmen! Carmen! . . . . . Charlotte  
Gloria's Aesthenic Therapy . Fayetteville  
Nail Style . . . . . Monroe  
Pamper Palace . . . . . Greensboro  
Something Wonderful . . . . . Cornelius  
Soothing Sensations . . . . . Apex  
Staywell . . . . . Saluda  
Victoria's Beauty Box . . . . . Edenton  
Xanadu. . . . . Winston-Salem

### Orders have been sent to the following individuals:

Angela Alessi . . . . . Franklin  
Deborah Avalos . . . . . Troutman  
Kit Barker . . . . . Highlands  
Joel Bean . . . . . Greensboro  
Linda Carr . . . . . Pisgah Forest  
Mary Anna Clark . . . . . High Point  
Charles Creeger . . . . . Raleigh  
Traci Miller Denning . . . . . Shelby  
Michael Gracz . . . . . Raleigh  
Bob Haddad. . . . . Chapel Hill  
Joni Haynie . . . . . Wilmington  
Ericka Johnjack . . . . . Raleigh  
Andrea Johnson . . . . . Cornelius  
Kim Jolly . . . . . Statesville  
Casey Kristofferson . . . . . Old Fort  
Preeta Kuhlman . . . . . Raleigh  
Tim Kuhlman. . . . . Raleigh  
Michelle Lade. . . . . Raleigh  
Ronald Lancaster . . . . . Cornelius  
Kimberly Land . . . . . Lenoir  
Chanley Layton . . . . . Brevard  
Shannon Locklear . . . . . Pembroke  
Mari Bennett Mabe . . . . . Rockingham  
Charlene Murphy. . . . . Apex  
Susan Ngngyn . . . . . Monroe

Hannah Nicholson . . . . . Edenton  
Alaina Rastelii . . . . . Highlands  
Cary E. Rothenburger, III . . . Asheville  
Rose Spiral . . . . . Black Mountain  
Julius Torelli. . . . . High Point  
Angelyn Whitmeyer . . . . . Stokesdale  
Bonnie Williamson . . . . . Saluda  
Theresa Victa . . . . . Murphy  
Mary Liza Yowell . . . . . Kitty Hawk

## REVOCATIONS

The following therapists had their licenses to practice massage and bodywork therapy in North Carolina REVOKED for failing to comply with the terms of their conditional licenses:

Gary Adams . . . . . Charlotte  
Akasha . . . . . Goldsboro  
Kay Beeman . . . . . Auburn, CA  
Lee Derus . . . . . Asheville  
Nikki Gadson . . . . . Raleigh  
Michael Gracz . . . . . Raleigh  
Anna Ingraham . . . . . Charlotte  
Helen Kelley . . . . . Sparta  
Jennette Mabe . . . . . Elkin  
Tammy Pack . . . . . Rutherfordton  
Karen Robertson . . . . . Kill Devil Hills  
Joseph Rocanova . . . . . Charlotte  
Wilma Spencer . . . . . Englehard

## CONSENT ORDERS

**JONI HAYNIE (License #4321)** of New Hanover County. Ms. Haynie violated G.S. 90-634(a) by practicing without a license from January 1, 2001 through August 2003. She entered into a Consent Order with the Board on November 17, 2003 and was issued a conditional license on the same date following the entry of the Consent Order. Her **conditional license was suspended for two years**, however, the suspension was stayed for two years and she was placed on probation for two years on the conditions that she (a) take a course concentrating on the Practice Act and Rules, business and ethics, (b) pay a civil penalty of \$1000 during the term of her probation and (c) not violate the Practice Act or Rules during her probation.

**GLADYS SALVATIERRA (License #1999)** of Durham County. Ms. Savlatierra violated G.S. 90-632 and Rule .0701(a), by failing to timely renew her license, and violated G.S. 90-634(a) by practicing without a license from January 1, 2003 through May 3, 2003. She entered into a Consent Order with the Board on November 20, 2003. Her **license was suspended for one year**, however, the suspension was stayed for one year and she was placed on probation for that year.

# NEWS FROM THE BOARD

## 2004 Board Meeting Schedule

The Board meets in downtown Raleigh at the Wachovia Capitol Center at 150 Fayetteville Street Mall; meetings are open to the public and begin at 10:00am.

The meeting schedule for 2004 is on the following Thursdays: **February 19, April 15; June 17; August 19 October 21; December 16.** There is a 15-minute period of Public Comment at each meeting; those interested must sign up in person before the start of a meeting.

## New members join the Board

Two new therapist members took their seats at the recent December 18, 2003 Board meeting. **Susan Erhlich, MD, LMBT**, of Greenville, NC, was appointed by Senate President Pro Tem Marc Basnight to replace Candace Frye, and **Rosemary Hill, LMBT** of Apex, NC, was appointed by House Speaker Jim Black to replace Rick Rosen. Both Frye and Rosen were founding members of the Board, and had served the maximum of two consecutive terms of office allowed under the Practice Act.

Frye served as the Board's Vice-Chair during her entire term, and also chaired the School Approval Committee. Rosen was the Board's first Chair from 1999-2001, and chaired the Policy Committee during his entire term.

## Board Pursues Revisions to the Rules; Public Hearing Scheduled

The Board adopted its initial set of rules in the year 2000, and has been administrating the regulatory program for LMBT's and approved schools based on those rules. From time to time, it is necessary to analyze the rules, and to make revisions which are needed for the Board to operate in the most effective manner.

At its December 18, 2003 meeting, the Board voted to submit a set of revised rules to the State's Office of Administrative Hearings, thus beginning the rule making process. **A complete copy of the proposed revisions are available** as a free download from the Board Website, on the *Document Center*. A hard copy may be obtained upon request from the Board Office for a fee of \$8.00. Included with the rules is an explanatory document which provides an overview of the rule making process, and a brief description of the proposed change to each rule.

**Opportunity for public comment.** Any person may submit written comments to the Board on the rule changes during a 60-day period following official publication of the proposed rules in the *North Carolina Register*. In addition, the Board has scheduled a **Public Hearing on Wednesday February 18, 2004 at 9:00am in Raleigh**, to receive oral comments on the rule changes.

The Board will consider all comments received before adopting a final version of the rules, which are then submitted to the North Carolina Rules Review Commission for approval. The overall process takes at least six months.

## LMBT Advertising Requirements

While many licensees have done a good job in complying with the advertising requirements set forth in Rule .0404, there are a still number of licensees whose advertising fails to meet the standards in one or more ways. As a reminder, here are the three elements you must include in every instance where you promote your practice:

- 1) First and last name
- 2) License number
- 3) Professional designation, displayed either as *LMBT*, or as *Licensed Massage and Bodywork Therapist*.

In the case of a business advertising services on behalf of an LMBT, the same three elements must be included. As an alternative, the business may use the exact phrase: *"Services provided by North Carolina Licensed Massage and Bodywork Therapists"* if the names and license numbers of each practitioner are not included. Group ads or promotional materials which include the services of more than one licensee may also use this alternative phrase.

## Licenses Granted and Renewed

Number of Licensees in good standing as of January 8, 2004. . . . .	3700
Total number of licenses granted by the Board from October 2000-January 8, 2004. . . . .	4380
Licenses required to renew in 2003 cycle. . . . .	759
Licenses who renewed on time . . . . .	417
Licenses who renewed late . . . . .	130
Licenses who did NOT renew . . . . .	212
Percentage of licencees not renewing in 2003 cycle . .	28%
Percentage of licencees not renewing in 2002 cycle . .	19%
Licenses scheduled to renew in 2004 cycle. . . . .	2910
New requests for license applications from March 1, 2003 – January 8, 2004 . . . . .	874

**JYL DECHERD (License #826)** of Mecklenburg County. Ms. Decherd violated Rule .0501 (the Code of Ethics) by providing treatment to a client that exceeded services she was qualified to perform, and by failing to refer the client to the appropriate health care practitioner. She entered into a Consent Order with the Board on December 16, 2003.

She was **placed on probation for one year** and is required to a) take eight hours of approved continuing education in ethics and boundary issues during the year of probation, b) pay costs of \$200, and c) not violate the Practice Act or Rules during her probation."

# SCHEDULE of CIVIL PENALTIES

The following are suggested civil penalties (or fines) for various violations of the Practice Act and the Rules of the Board. The amounts listed here are the maximum fines the Board may assess for each of these categories; the exact amount will be determined for each violation, with consideration factors taken into account.

## ACTIONS BY LICENSED MASSAGE AND BODYWORK THERAPISTS THAT MAY RESULT IN FINES:

### Up to \$250

1. Violation of Professional Designations Requirements (Rule .0301).
2. Violation of Display of License Requirements (Rule .0302).
3. Violation of Trade Names Requirements (Rule .0402).
4. Violation of Change of Address Requirements (Rule .0403).

### Up to \$500

1. Violation of the Facility Requirements (Rule .0502).
2. Violation of the Hygiene Requirements (Rule .0503).
3. Violation of Draping Requirements (Rule .0504).
4. Violation of Continuing Education Requirements (Rule .0701).

### Up to \$1000

1. The employment of fraud, deceit, or misrepresentation to obtaining or attempting to obtain a license or the renewal of a license (G.S. 90-633).
2. The use of drugs or intoxicating liquors to an extent that affects professional competency (G.S. 90-633).
3. Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law until proof of rehabilitation can be established (G.S. 90-633).
4. Conviction of a felony or other public offense involving moral turpitude until proof of rehabilitation can be established (G.S. 90-633).
5. Aiding, abetting, or assisting any other person in the violation of any of the provisions of the Practice Act or Rules (G.S. 90-633).
6. The commission of an act of malpractice, gross negligence, or incompetency (G.S. 90-633).
7. Practicing, advertising, representing or holding oneself out as a Licensed Massage and Bodywork Therapist with an expired license (G.S. 90-633).
8. Engaging in conduct that could result in harm or injury to the public (G.S. 90-633).
9. The employment of fraud, deceit, or misrepresentation when communicating with the Board, general public, health care professionals, or other business professionals (G.S. 90-633).
10. Falsely holding out himself or herself as licensed or certified in any discipline of massage and bodywork therapy without successfully completing recognized training in that specialty (G.S. 90-633).
11. Violation of Advertising Requirements (Rule .0404).
12. Violation of the Code of Ethics (Rule .0501).
13. Violation of Prohibition on Sexual Activity (Rule .0505).
14. Violation of the Requirement to Report Crimes and Civil Suits (Rule .0506).

## ACTIONS BY APPROVED SCHOOLS OF MASSAGE AND BODYWORK THERAPY THAT MAY RESULT IN FINES:

### Up to \$250

1. Late submittal of annual Renewal Application (Rule .0601).
2. Failure to submit a change form related to any aspect of the program within the 30 day deadline (Rules .0601, .0602).
3. Failure to respond to Legal Counsel/Board requests for information, clarification and additional documents within a thirty (30) days deadline (Rule .0601).

### Up to \$500

1. Failure to submit a change form related to related to any aspect of the program within the 60 day deadline (Rule .0601).
2. Failure to maintain at any time the minimum requirements for school approval (Rule .0601).
3. Evidence of health and sanitation infractions (Rule .0602).
4. Failure to administer standards for admission that are designed to ensure that only those students who have the ability to successfully complete the program will be admitted.
5. Failure to maintain adequate instructional space, equipment or learning resources (Rule .0602).
6. Failure to maintain student records in a safe and secure manner (Rule .0602).
7. Exceeding the prescribed student-to-instructor ratio in hands-on classes (Rule .0602).
8. Any incident of direct compensation to a student for practicing massage and bodywork therapy prior to becoming a licensee (Rule .0602).
9. Granting transfer credit or advanced placement to a student which does not meet all the requirements set forth in Rule .0602 (r) or (s), respectively.
10. Having a student enrollment contract or school catalog that does not meet all the requirements set forth in Rule .0602 (u) or (v), respectively.
11. Inappropriate or inaccurate use of approval designations (Rule .0604).

### Up to \$1000

1. Submission of documents to the Board that contain false and/or misleading information (Rule .0601).
2. Failure to require students to complete the minimum requirements of a massage and bodywork therapy program in order to graduate or receive a credential (Rule .0601).
3. Failure to allow authorized representatives of the Board to conduct inspections of the school (Rules .0601, .0605).
4. Refusal to make available to representatives of the Board full information as requested (Rules .0601, .0605).
5. Operating an additional school location without first obtaining approval from the Board (Rule .0601).
6. Evidence of fire and safety infractions (Rule .0602).
7. Allowing the school's professional liability insurance policy to expire (Rule .0602).
8. Failure to conduct an annual review or audit by a CPA, or otherwise fail to maintain the financial requirements set forth in Rule .0602(h).

9. Employing or contracting with a program director or key administrative staff member who does not meet all of the qualifications set forth in Rule .0602(d) or (e), respectively.
10. Employing or contracting with an instructor who does not meet all qualifications set forth in Rule .0602(e).
11. Failure to maintain basic curriculum standards that ensure graduates have the education and skills necessary to carry out the safe and effective practice of massage and bodywork therapy (Rule .0602).
12. Failure to ensure that school personnel and students comply with the Standards of Professional Conduct set forth in Rule Section .0500., the Standards of Practice set forth by the National Certification Board for Therapeutic Massage and Bodywork, or the Board's standards regarding nudity where massage and bodywork therapy is taught or practiced (Rule .0602).
13. Failure to comply with advertising requirements (Rule .0602).

14. Operating or promoting an additional program without first obtaining approval from the Board (Rule .0602).

### **ACTIONS BY NON-REGULATED PERSONS THAT MAY RESULT IN FINES:**

#### **Up to \$1000**

The Board may assess civil penalties to persons who are not licensed or entities which are not regulated by the Board for violations of the provisions of G.S. 90-634(a):

1. Practicing massage and bodywork therapy without a license.
2. Advertising, representing, or holding out to others to be a massage and bodywork therapist.
3. Using any title descriptive of any branch of massage and bodywork therapy, as provided in G.S. 90-623, to describe a practice or business activity.

#### *NEW ENFORCEMENT TOOLS (continued from page 1)*

There are numerous ethical and professional requirements which all LMBT's and Board-approved schools are bound to uphold. When evidence of a violation becomes known, the Board stands ready to investigate and take action. These new civil penalties, combined with the range of disciplinary sanctions the Board has already been utilizing, will provide for more effective enforcement. Here is the new section of the Practice Act:

#### **§ 90-634.1. Civil penalties; disciplinary costs.**

**(a) Authority to Assess Civil Penalties.** - The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

**(b) Consideration Factors.** - Before imposing and assessing a civil penalty, the Board shall consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

**(c) Schedule of Civil Penalties.** - The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

**(d) Costs.** - The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board."

Note that all penalties collected by the Board for violations of the Laws and Rules are sent to a fund which is distributed to the public school systems of the state.

#### *PROFESSIONAL ETHICS (continued from page 1)*

The Board has taken this action in the interest of public protection, and to support the licensee in developing greater knowledge, skills and awareness which will enable them to better serve their clients, and to reduce the likelihood of ethical problems.

The Board has adopted these requirements as **Guideline 5.8**, which is as follows:

#### **5.8 Continuing education in professional ethics required.**

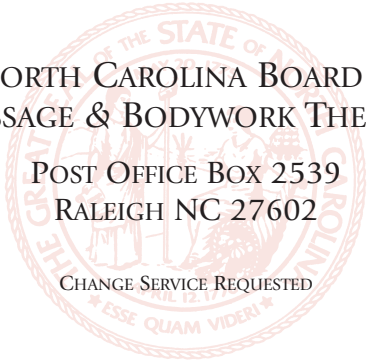
- 5.8.1 Pursuant to Rule .0701(a), there shall be a minimum of **3 hours of continuing education** in professional ethics required out of the minimum of 25 hours of approved continuing education required for license renewal. This may be obtained through supervised classroom instruction or distance learning.
- 5.8.2 **Professional ethics** shall be defined as a system of conduct guided by principles which are intended to ensure the safe and effective practice of massage and bodywork therapy.
- 5.8.3 **Acceptable subject matter for professional ethics courses** may include: compliance with Practice Act, Rules and Guidelines, management of the therapist/client relationship, boundary functions, professional communication skills, conflict resolution, cultural diversity issues, infectious disease control guidelines, and standards of practice.
- 5.8.4 This **requirement shall take effect** with licensees whose licenses expire on December 31, 2005.

Licensees may fulfill this requirement with courses offered by any approved provider under Rule .0702, which includes providers approved by NCBTMB, and accredited colleges or universities. Please note that the North Carolina Board requirement of three ethics hours every two years is congruent with the NCBTMB ethics education requirement of six hours every four years.

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MASSAGE & BODYWORK THERAPY

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The Board Website is Your  
Online Source for Information



The website provides an easily accessible source for information on the licensing program and activities of the Board. There are individual pages which give you:

- An overview of the regulatory process
- Contact information for the Board
- List of Board members and professional staff
- Board Members' Code of Conduct
- Meeting schedule and map to the Board Office
- Information on how to apply for initial licensure
- List of Board-approved schools
- Frequently Asked Questions
- Look up a Licensee – search by last name or license number to verify license status
- How to file a complaint
- Links to other agencies and organizations

A feature, called the **DOCUMENT CENTER**, is a popular page on the site. From this location, you can view and/or download many of the important documents which are part of the licensing program. These include:

*Practice Act  
Rules & Regulations  
Guidelines*

*Request Form for Initial Application  
Application for License Renewal  
Orientation Handbook - New Licensees*