

Oregon Board of Massage Therapists OAR 334  
Effective July 1, 2015

**334-040-0010**

**Discipline**

The Board may deny, conditionally grant, restrict, suspend or revoke a license or permit, impose probation, reprimand, censure, impose remedial education or corrective actions, and/or impose a civil penalty for any of the following reasons:

- (1) Practicing massage or representing one's self as a massage therapist without a current active license issued by the Board;
- (2) Knowingly or recklessly making any false statement to the Board;
- (3) Has been the subject of disciplinary action as a licensed healthcare professional by this or any other state or territory of the United States or by a foreign country and the Board determines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250, 687.895 and 687.991 or OAR Chapter 334;
- (4) Suspension or revocation of a license to practice massage in another jurisdiction based upon acts by the licensee similar to acts described in this section;
- (5) Knowingly or recklessly falsifying an application or continuing education statement or documentation;
- (6) Conviction of a crime in any state or jurisdiction;
- (7) The use of false, deceptive, or misleading advertising, which includes but is not limited to, advertising massage using the term "massage" or any other term that implies a massage technique or method in any private or public communication or publication by a person licensed or not licensed by the Board as a massage therapist;
- (8) Allowing the use of a license by an unlicensed person;
- (9) Presenting as one's own license, the license of another;
- (10) Practicing massage under a false or assumed name without notification to the Board;
- (11) Impersonating another massage therapist;
- (12) Assisting, employing, or permitting an unlicensed person to practice massage;
- (13) Practicing or purporting to practice massage when the license has been revoked or suspended, lapsed or inactive;
- (14) Practicing or offering to practice massage beyond the scope permitted by law;
- (15) The use of intoxicants, drugs, controlled substances, or mind altering substances to such an extent as to impair or potentially impair the licensee's abilities to perform professional duties in a safe manner;
- (16) Practicing massage with a physical or mental impairment that renders the therapist unable or potentially unable to safely conduct the practice of massage;
- (17) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition as required by rules of the Board;
- (18) Refusing to permit the Board or its representatives to inspect the business premises of the licensee during regular business hours;
- (19) Failing to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to:
  - (a) Failure to furnish any requested papers or documents,
  - (b) Failure to provide in writing a full and complete explanation covering the matter contained in the complaint filed with the Board,
  - (c) Failure to respond to subpoenas issued by the Board whether or not the recipient is accused in the proceeding;
- (20) Failing to comply with an order issued by the Board;
- (21) Failure to obtain the required permits for facilities or in violation of OAR 334-010-0010.

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- (22) Failure to report to the Board information that a licensee has engaged in prohibited or unprofessional conduct as required in ORS 676.150.
- (23) Unprofessional or dishonorable conduct which includes but is not limited to:
  - (a) Any conduct involving inappropriate physical contact or sexual misconduct which includes:
    - (A) Sexual abuse which is conduct which constitutes a violation of any provision of ORS 163.305 through 163.465;
    - (B) Sexual violation which is sex between the LMT and the client, whether initiated by the client or not, engaging in any conduct with a client that is sexual, or may be reasonably interpreted as sexual, including, but not limited to:
      - (i) Sexual intercourse;
      - (ii) Genital to genital contact;
      - (iii) Oral to genital contact; oral to anal contact;
      - (iv) Oral to oral contact except cardiopulmonary resuscitation; touching breasts or genitals or any sexualized body part for any purpose other than appropriate examination or treatment or where the client has refused or withdrawn consent; or
      - (v) Encouraging the client to masturbate in the presence of the LMT or masturbation by the LMT while the client is present.
    - (C) Sexual impropriety which is any behavior, gestures, or expressions that are seductive or sexually demeaning to a client; inappropriate procedures, including, but not limited to,
      - (i) Disrobing or draping practices that reflect a lack of respect for the client's privacy, deliberately watching a client dress or undress instead of providing privacy for disrobing;
      - (ii) Subjecting a client to an examination in the presence of students, assistants, or other parties without the explicit consent of the client or when consent has been withdrawn;
      - (iii) An examination or touching of genitals;
      - (iv) Inappropriate comments about or to the client, including but not limited to, making sexual comments about a client's body or clothing, making sexualized or sexually-demeaning comments to a client, comments on the client's or LMT's sexual orientation and making a request to date;
      - (v) Initiation by the LMT of conversation regarding the sexual problems, preferences or fantasies of the LMT; or
      - (vi) Kissing.
    - (b) Violating the client's rights of privacy, and confidentiality.
    - (c) photographing or filming the body or any body part or pose of a client without consent.**
    - ~~(de)~~ Failure to disclose or release information about a client if required by law or on written consent of client.
    - ~~(ed)~~ Intentionally harassing, abusing, or intimidating a client either physically or verbally.
    - ~~(fe)~~ Any conduct or practice which could endanger the health or safety of a client or the public.
    - ~~(gf)~~ Any conduct or practice which impairs the massage therapist's ability to safely and skillfully practice massage.
    - ~~(hg)~~ Exercising undue influence on a client, including promotion or sale of services, goods, or appliances in such a manner as to exploit the client for the financial gain or self-gratification of the massage therapist.
    - ~~(ih)~~ Routinely practicing in an incompetent manner.
    - ~~(ji)~~ Conduct which would also constitute a violation of the Oregon Unlawful Trade Practices Act.
    - ~~(kj)~~ Practicing a modality or technique without adequate training or licensure.

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Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Sections (6) - (20)(h) Renumbered from 334-030-0020; BMT 2-1998, f. & cert. ef. 7-22-98; Renumbered from 334-030-0025 by BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 4-2011, f. 12-1-11, cert. ef. 1-1-12