

**Nevada State Board  
of Massage Therapists**  
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**Nevada State Board  
of Massage Therapists**  
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Las Vegas, NV 89109  
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NOTICE OF INTENT TO ACT UPON REGULATIONS  
NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS OF THE  
NEVADA STATE BOARD OF MASSAGE THERAPISTS

The Nevada State Board of Massage Therapists will hold a public hearing at 9:00 am, on April 11, 2008, at

<b>Las Vegas Location</b>	<b>or</b>	<b>Carson City Location</b>
Grant Sawyer State Office Building 555 E. Washington Ave. 4401 Las Vegas, NV 89101		Legislative Building 401 S. Carson St. Room 2134 Carson City, NV 89701

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter NRS 640C of the Nevada Administrative Code.

1. The need for and the purpose of the proposed regulation is to create regulations per NRS 640C300.(6)
2. A Copy of all materials relating to the approved regulation may be obtained by contacting the Nevada State Board of Massage Therapists at 1755 E. Plumb Lane, Suite 252, Reno, NV 89502 or Call (775) 688-1888. A reasonable fee for copying and mailing may be charged.
3. The methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608. The Board has agenized and discussed the proposed regulation at the following Board Meetings.
  - a. Workshop April 11, 2008
  - b. February 8, 2008
  - c. January 11, 2008
  - d. December 14, 2007
  - e. October 12, 2007
  - f. May 18, 2007
  - g. Workshop February 16, 2007
  - h. Workshop December 26, 2006
4. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
  - a. Both adverse and beneficial effects; There are no adverse or beneficial effects for the business or the public.

b. Both immediate and long-term effects. – There are no immediate or long-term effects for the business or the public.

5. The estimated cost to the agency for enforcement of the proposed regulation.  
There are no costs to the agency for enforcement of the proposed regulation at this time.
6. The proposed regulations do not overlap any State or Local governmental agencies
7. The proposed regulations are not required by Federal Law.
8. There are no Federal regulations that regulate the same activity.
9. The proposed regulations do not establish a new fee or increase an existing fee.

A person wishing to comment upon the proposed action of The Nevada State Board of Massage Therapists may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to The Nevada State Board of Massage Therapists, 1755 E. Plumb Lane Suite 252, Reno, NV 8950. Written Submissions must be received by The Nevada State Board of Massage Therapists on or before April 3, 2008. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Massage Therapists may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at:

Nevada State Board of Massage Therapists  
1755 E. Plumb Lane Suite 252  
Reno, NV 89502  
(775) 688-1888

Nevada State Board of Massage Therapists  
101 Convention Center Drive Suite 830  
Las Vegas, NV 89109

And in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee for copying may be charged if it is deemed necessary.

Upon adoption of any regulation, the agency if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Carson City Library  
900 North Roop Street  
Carson City, NV 89702

Churchill County Library  
553 South Main Street  
Fallon, NV 89406

Clark County District Library  
833 Las Vegas Blvd North  
Las Vegas, NV 89101

Douglas County Library  
1625 Library Lane  
Minden, NV 89423  
Elko County Library  
720 Court Street  
Elko, NV 89801

Esmeralda County Library  
720 Court Street  
Elko, NV 89801

Esmeralda County Library  
Corner of Crook & 4<sup>th</sup> Street  
Goldfield, NV 89013

Humboldt County Library  
85 East 5<sup>th</sup> St.  
Winnemucca, NV 89445

Lander County Library  
625 South Broad Street  
Battle Mountain, NV 89820

Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Mineral County Public Library  
110 1<sup>st</sup> Street  
Hawthorne, NV 89415

Pershing County Library  
1125 Central Ave  
Lovelock, NV 89419

Storey County Public Library  
95 South R. Street  
Virginia City, NV 89440

Tonopah Public Library  
167 Central Street  
Tonopah, NV 89049  
Washoe County Library  
301 South Center Street  
Reno, NV 89501

White Pine County Library  
950 Campton Street  
Ely, NV 89301

REVISED PROPOSED REGULATION OF THE  
BOARD OF MASSAGE THERAPISTS

LCB File No. R009-07

March 10, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-5 and 7-28, NRS 640C.320; §6, NRS 640C.320 and 640C.520.

A REGULATION relating to massage therapy; establishing the period within which the Board of Massage Therapists will report the results of an investigation concerning an applicant for a license to practice massage therapy; requiring, under certain circumstances, a practical examination as a prerequisite for obtaining such a license; establishing a schedule of fees; establishing the requirements for continuing education for the renewal of such a license; establishing certain requirements relating to sanitation, hygiene and safety in the practice of massage therapy; interpreting the phrases “sexual activity” and “unethical or unprofessional conduct”; and providing other matters properly relating thereto.

**Section 1.** Chapter 640C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 28, inclusive, of this regulation.

**Sec. 2.** *“Massage establishment” means any premises, mobile unit, building or part of a building where massage therapy is practiced.*

**Sec. 3.** *The Board or its designee will report the results of an investigation of an applicant for a license to practice massage therapy, where practicable, at the next scheduled meeting of the Board immediately after the receipt of all the background information relating to the applicant that the Board or its designee deems necessary to conduct the investigation.*

**Sec. 4. 1.** *For the purposes of paragraph (c) of subsection 2 of NRS 640C.400, an applicant for a license to practice massage therapy must pass:*

*(a) The National Certification Examination for Therapeutic Massage;*  
*(b) The National Certification Examination for Therapeutic Massage and Bodywork; or*

*(c) The National Examination for State Licensing,*  
*↪ administered by the National Certification Board for Therapeutic Massage and Bodywork.*

**2.** *Except as otherwise provided in subsection 3, an applicant for a license to practice massage therapy must pass a practical examination that is administered by the members of the Board or a designee of the Board, which may include, without limitation, a provider of a program of massage therapy that is recognized by the Board pursuant to NRS 640C.400. Before designating such a provider to administer the practical examination, the Board will audit the procedures of the provider for administering the practical examination.*

**3.** *The Board will, if deemed appropriate by the Board, waive the requirement for passing the practical examination if the applicant meets the requirements for licensure set forth in NRS 640C.420.*

**Sec. 5. 1. If an applicant for a license to practice massage therapy who otherwise satisfies the requirements of NRS 640C.400 or 640C.420, wishes the Board to recognize a program of massage therapy other than a program listed in paragraph (a) or (b) of subsection 4 of NRS 640C.400, the applicant must submit to the Board a detailed outline of the training of the applicant that includes, without limitation:**

- (a) A list of the instructors of the training;**
- (b) Any texts used as study guides for the training; and**
- (c) Certificates of completion for the training which evidence that the applicant has satisfied the number of training hours required by the Commission on Postsecondary Education for a program of massage therapy.**

**2. Where practicable, a request for recognition of a program of massage therapy made pursuant to this section will be considered by the Board at the next regularly scheduled meeting of the Board immediately following the receipt of the request.**

**Sec. 6. The Board will charge and collect fees in the following amounts:**

<b>An examination established by the Board .....</b>	<b>\$250</b>
<b>An application for a license.....</b>	<b>50</b>
<b>A background check of an applicant.....</b>	<b>100</b>
<b>The issuance of a license .....</b>	<b>150</b>
<b>The renewal of a license .....</b>	<b>150</b>
<b>The restoration of an expired license.....</b>	<b>150</b>
<b>The reinstatement of a suspended or revoked license.....</b>	<b>150</b>
<b>The issuance of a duplicate license .....</b>	<b>45</b>
<b>The restoration of an inactive license .....</b>	<b>50</b>

**Sec. 7. 1. To maintain his licensure, a massage therapist must complete, to the satisfaction of the Board, at least 12 hours of continuing education as specified in section 8 of this regulation within the year immediately preceding his request for renewal of his license. Except as otherwise provided in subsection 2, proof of the completion of the requirement for continuing education must be submitted with an application for renewal of a license in the year in which the credit is earned.**

**2. If a massage therapist obtains more than 12 hours of continuing education in a year, he may request that the Board carry over the excess hours of credit, not to exceed 36 hours, to apply towards completion of the requirement for continuing education set forth in subsection 1 for succeeding years, up to a maximum of 3 succeeding years.**

**3. If a massage therapist fails to complete the requirements for continuing education set forth in subsection 1 before the date on which his license expires, the Board will send a notice to the massage therapist indicating that the massage therapist is not in compliance with the requirements for continuing education.**

**Sec. 8. 1. The Board will approve credit for continuing education as follows:**

**(a) One hour of credit will be approved for each 60 minutes that a massage therapist attends a workshop, course, conference or seminar relating to the practice of massage therapy which is provided by a person or entity that is:**

*(1) Accredited by the National Commission for Certifying Agencies, or an equivalent accrediting body approved by the Board;*

*(2) Approved by the National Certification Board for Therapeutic Massage and Bodywork;*

*(3) A massage therapy school, bodywork therapy school, public college, postsecondary institution or other entity which offers a program of massage therapy that is recognized by the Board pursuant to NRS 640C.400 and section 5 of this regulation; or*

*(4) A massage therapist with at least 2 years of experience in the practice of massage therapy or a related field who has previously received approval from the Board for the workshop, course, conference or seminar.*

*(b) The amount of credit for authoring a publication relating to the practice of massage therapy will be determined upon receipt and evaluation by the Board of the information required to be submitted pursuant to section 10 of this regulation.*

*(c) One hour of credit, up to a maximum of 8 hours of credit per year, will be approved for each hour spent:*

*(1) Giving a presentation at a workshop, course, conference or seminar relating to the practice of massage therapy.*

*(2) Preparing a presentation described in subparagraph (1).*

*(3) Serving as a member of the Board or a member of a committee appointed by the Board, attending a meeting of the Board or administering a practical examination described in section 4 of this regulation.*

*2. A massage therapist may receive credit only once for giving or preparing a presentation described in subparagraph (1) of paragraph (c) of subsection 1.*

*3. The Board will consider the written request of a massage therapist for approval of credit for any continuing education that is not specified in subsection 1, including credit for any continuing education that is not specifically related to massage therapy, if the request is submitted to the Board at least 90 days before date on which the license of the massage therapist expires.*

**Sec. 9. 1. A massage therapist may request approval of credit for continuing education from the Board before attending, preparing or giving a presentation at a program of continuing education.**

**2. A request made pursuant to subsection 1 must be accompanied by the applicable information and documentation listed in section 10 of this regulation.**

**3. The Board will inform a massage therapist of the approval or denial of credit for continuing education within 30 days after the next meeting of the Board immediately following the receipt of a request made pursuant to subsection 1.**

**Sec. 10. 1. To obtain credit for attending a program of continuing education relating to the practice of massage therapy, a massage therapist must submit to the Board:**

- (a) The name of the program;**
- (b) The name of the sponsor of the program;**
- (c) Biographical information regarding the instructor of the program;**
- (d) The inclusive dates and location of attendance of the program;**
- (e) The number of hours awarded by the sponsor of the program for completion of the program;**
- (f) A copy of the signed certificate of completion; and**
- (g) A brief summary of the information that the massage therapist learned at the program and the manner in which the massage therapist will use that information in his practice.**

**2. To obtain credit for preparing or giving a presentation at a program of continuing education relating to the practice of massage therapy, a massage therapist must submit to the Board:**

- (a) Biographical information regarding the massage therapist who is preparing or giving the presentation at the program of continuing education;**
- (b) The title of the presentation;**
- (c) The name of the sponsor of the presentation;**
- (d) The location of the presentation;**
- (e) The number of hours of the presentation;**

- (f) The source of the information conveyed in the presentation;*
- (g) The inclusive dates of the presentation;*
- (h) A list of all the persons who attended the presentation; and*
- (i) A brief summary of the presentation and the information that a person who attended the presentation was expected to learn.*

*3. To obtain credit for authoring a publication relating to the practice of massage therapy, a massage therapist must submit to the Board:*

- (a) A copy of the published material; and*
- (b) The title, publisher and date of publication of the published material.*

*4. Except as otherwise provided in subsection 5, if the credit for continuing education is for a course of study, training or performing an educational activity relating to the practice of massage therapy which is not specified in subsection 1 of section 8 of this regulation, the massage therapist must submit to the Board:*

- (a) A description of the subject matter studied, the training received or the educational activity performed;*
- (b) A schedule of the time spent studying, training or performing; and*
- (c) A brief summary of the manner in which the course, training or activity relates to massage therapy.*

*5. If the credit for continuing education is sought for:*

*(a) A course attended by telecommunication or on the Internet, the massage therapist must submit to the Board a copy of the transcript and the certificate of completion or other proof of completion, which includes the contact information of the provider.*

*(b) Serving as a member of the Board or a member of a committee appointed by the Board, administering a practical examination described in section 4 of this regulation or attending a meeting of the Board, the massage therapist must submit to the Board a list of the dates on which the meetings or examinations were attended or administered.*

**Sec. 11. 1. To obtain approval for a course or program of continuing education, a presenter of the course or sponsor of the program of continuing education, other than a person or entity listed in subsection 1 of section 8 of this regulation, must submit to the Board, the following information concerning the course or program of continuing education, in addition to submitting the information set forth in subsection 2 of section 10:**

- (a) The agenda for the course or program of continuing education; and**
- (b) The original draft of the certificate of completion that will be distributed to participants upon completion of the course or program of continuing education.**

**2. The Board will inform the presenter or sponsor of the approval or denial of credit for continuing education within 30 days after the next meeting of the Board immediately following the receipt of a request made pursuant to subsection 1.**

**Sec. 12. Any advertisement for the practice of massage therapy must include the license number of the massage therapist to which the advertisement pertains.**

**Sec. 13. 1. A massage establishment that provides vapor baths, steam baths or portable saunas must be equipped with adequate shower facilities.**

**2. A massage therapist shall ensure that:**

- (a) All portable saunas, showers, tubs, basins, massage or steam tables, combs, brushes, shower caps and any other equipment used in the massage establishment is cleaned and rendered free from harmful organisms by the application of a bactericidal agent;**
- (b) Any equipment that comes in contact with a client of the massage therapist is cleaned with soap or detergent and hot water and is sanitized before the equipment is used on another client;**
- (c) All equipment, furniture and fixtures, including, without limitation, tables used for massage, are clean and well-maintained;**
- (d) All electrical equipment used for the care of a client is clean and well-maintained and is listed to applicable standards and requirements by Underwriters Laboratories Inc., or approved by another nationally recognized testing laboratory; and**
- (e) All hydrotherapy equipment is cleaned after each use, is well-maintained and is only used in the manner prescribed by the manufacturer of the equipment.**

**Sec. 14. 1. A massage therapist shall have sufficient knowledge of communicable diseases to protect the clients of the massage therapist and the massage therapist from the transmission of such a disease while engaging in massage therapy.**

**2. If a massage therapist has reason to suspect that an employee who assists the massage therapist with massage therapy or a client of the massage therapist may have a communicable disease, the massage therapist shall:**

- (a) Recommend to the client that the client be examined by a licensed health care provider.**

**(b) Request that the employee be examined by a licensed health care provider.**

**3. An employee who has been requested to be examined by a health care provider pursuant to subsection 2 must present a written statement from a licensed health care provider verifying that the employee is in compliance with the guidelines for prevention, suppression and control of communicable diseases set forth in chapter 441A of NAC before the employee may resume employment with the massage therapist.**

**4. A massage therapist and any person who works in a massage establishment and who is exposed as part of his employment to any bloodborne pathogens or bodily fluids shall practice universal precautions as described in 29 C.F.R. § 1910.1030(d).**

**Sec. 15. 1. A lubricant used in the practice of massage therapy, including, without limitation, oil, soap, alcohol, powder, lotion, shampoo and salts, must be:**

**(a) Dispensed from a suitable container that prevents contamination; and**

**(b) Stored:**

**(1) Separately from cleaning supplies; and**

**(2) In a manner that prevents contamination and preserves the integrity of the lubricant.**

**2. A massage therapist shall sanitize a container used to dispense a lubricant each time before he refills the container.**

**3. A massage therapist may use spa treatments, muds and body wraps while practicing massage therapy if he considers and follows sanitary procedures in his use of those materials.**

**Sec. 16. 1. Any exterior door and window in a massage establishment must be tight-fitting and must effectively exclude insects, rodents and other vermin.**

**2. The walls, ceilings and floors in a massage establishment must be well-maintained and kept clean.**

**3. The floors of a room in a massage establishment that contains a toilet must be made of an impervious material that is nonporous or nonabsorbent.**

**Sec. 17. 1. A room in which massage therapy is practiced must:**

**(a) Be designed to provide privacy for the client;**

**(b) Have the capability of maintaining the air temperature in the room at 75 degrees Fahrenheit at a point 24 inches above the floor;**

**(c) Have sufficient ventilation and circulation to prevent objectionable odors; and**

**(d) Have lighting fixtures which are capable of providing a minimum of 5 foot-candles of light at the floor level. Such lighting fixtures must be used when any cleaning operations are conducted in the room.**

**2. A room in which massage therapy is practiced must not be used simultaneously for massage therapy and any domestic purposes.**

**Sec. 18. 1. After a towel, linen or gown has been used once in a massage establishment, it must be deposited in a receptacle provided for soiled towels, linens and gowns and must not be used again until properly laundered and sanitized.**

2. *After being laundered and sanitized, all towels, linens and gowns in a massage establishment must be stored at least 4 inches off the floor in shelves, compartments or cabinets that are used only for that purpose.*

3. *Any items designed for a single service and all towels, linens and gowns furnished for the use of a client must be clean.*

**Sec. 19. A massage therapist shall:**

1. *Wear clean opaque clothing and practice strict standards of personal hygiene while practicing massage therapy; and*

2. *Thoroughly wash his hands with soap and water or an alcohol liquid approved by the Board:*

(a) *Before and after providing massage therapy to each client; and*

(b) *After using the restroom.*

**Sec. 20. 1. A massage establishment must have an adequate supply of hot and cold running water that is safe and sanitary.**

2. *The interior piping in a water distribution system in a massage establishment must be installed and maintained in compliance with any applicable local building codes or ordinances prescribing standards for plumbing.*

**Sec. 21. 1. If a bathing facility other than a shower is used in a massage establishment, the bathing facility must:**

(a) *Have floors that are slip-resistant, easily cleaned and coved to a height of 4 inches;*

(b) *If an artificial surface made from resilient materials is used for the floor, be vacuumed with a wet vacuum frequently, to keep the floor clean and free from accumulated moisture;*

(c) *Have interior walls and ceiling finishes which are easily cleaned and are impervious to water; and*

(d) *If there is more than one bathing facility, be separated by a nonporous, nonabsorbent floor.*

2. **A massage therapist shall ensure that:**

(a) *An effective watertight joint between the wall and the floor is maintained in a bathing facility that is used in a massage establishment; and*

(b) *Any rubber or impervious mats that are used in the bathing facility are cleaned, sanitized and dried between uses.*

3. **If a shower is provided in a massage establishment, the shower must:**

(a) *Have compartments which are impervious to water to a height of 6 feet above the floor;*

(b) *Have a floor that is furnished with a non-slip impervious surface; and*

(c) *Have tempered glass or acrylic glass doors if the doors are made of glass or a substitute for glass.*

4. **A massage therapist shall ensure that all bathing facilities provided for use in a massage establishment satisfy the requirements of chapters 444 of NRS and NAC.**

5. **As used in this section:**

(a) *“Bathing facility” includes, without limitation, a spa, shower, bathtub, sauna and steam bath.*

*(b) "Spa" means a pool primarily designed for therapeutic use which is not drained, cleaned or refilled for each user. The term includes units which employ hydrojet circulation, hot water, cold water, mineral water, air induction bubbles or any combination thereof.*

*Sec. 22. All sewage and liquid waste generated by a massage establishment must be disposed of in a municipal sewage system where such a system is available. If a municipal sewage system is not available, sewage and liquid waste must be collected, treated and disposed of in compliance with the provisions of chapters 444 of NRS and NAC and any applicable local regulations which govern the subsurface disposal of sewage.*

*Sec. 23. Garbage and refuse on the premises of a massage establishment must be:*

- 1. Kept in containers which are easy to clean and well-maintained; and*
- 2. Disposed of in a sanitary manner.*

*Sec. 24. 1. A sanitary toilet must be provided in each massage establishment.*

*2. Lavatories with an adequate supply of hot and cold water under pressure must be conveniently located for use by the employees and clients of a massage establishment.*

*3. Any room in a massage establishment that contains a toilet must:*

*(a) Have doors that are capable of being fully closed and locked from the inside; and*

*(b) Be kept clean, in good repair and free from flies, insects and vermin.*

*4. A supply of soap in a covered dispenser, single-use or disposable towels in a dispenser and a waste receptacle for proper disposal of the towels must be provided in each lavatory.*

*5. A supply of toilet paper on a dispenser must be available and conveniently located next to each toilet provided in a massage establishment.*

*Sec. 25. A massage therapist shall ensure that the massage establishment in which he engages in the practice of massage therapy is:*

- 1. Kept clean and free of litter or rubbish; and*
- 2. Maintained in a neat and orderly manner.*

*Sec. 26. As used in subsection 4 of NRS 640C.700, the Board interprets the phrase "sexual activity" to include, without limitation:*

- 1. Sexual intercourse;*
- 2. Examining or touching the genitals, anus or any sexualized body part except as otherwise provided in subsection 4 of NRS 640C.700;*
- 3. Rubbing against a client for sexual gratification;*
- 4. Kissing;*
- 5. Hugging, touching, fondling or caressing of a romantic or sexual nature;*
- 6. Not allowing a client privacy to dress or undress except as may be necessary in a medical emergency or custodial situation;*
- 7. Not providing a client a gown or draping except as may be necessary in a medical emergency;*
- 8. Removing the client's clothing or gown or draping without consent, except as may be necessary in a medical emergency or in a custodial setting;*
- 9. Encouraging masturbation or any other sex act in the presence of the massage therapist;*
- 10. Dressing or undressing in the presence of the client;*

11. *Masturbation or any other sex act by the massage therapist in the presence of the client;*
12. *Suggesting or discussing the possibility of dating or beginning a sexual or romantic relationship before the professional relationship ends;*
13. *Terminating the professional relationship with the client for the purpose of dating or pursuing a romantic or sexual relationship;*
14. *Discussing the sexual history, preference or fantasies of the massage therapist;*
15. *Any behavior, gesture or expression that may reasonably be interpreted as seductive or sexual;*
16. *Making statements regarding the client's body, appearance, sexual history or sexual orientation other than for legitimate health care purposes;*
17. *Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a client;*
18. *Photographing or filming the body or any body part of a client other than for legitimate health care purposes; and*
19. *Showing a client sexually explicit photographs other than for legitimate health care purposes.*

**Sec. 27. 1.** *As used in subsection 9 of NRS 640C.700, the Board interprets the phrase "unethical or unprofessional conduct" to include, without limitation:*

- (a) *Offering to practice massage on a client in exchange for sexual favors;*
- (b) *Using health care information to contact a client for the purpose of engaging in a sexual activity with the client;*
- (c) *Using health care information or access to health care information to meet or attempt to meet the sexual needs of the massage therapist;*
- (d) *Engaging or attempting to engage in the activities listed in section 26 of this regulation or subsection 4 of NRS 640C.700 with a client or former client within 2 years after the professional relationship between the massage therapist and the client ends;*
- (e) *Engaging or attempting to engage in the activities listed in section 26 of this regulation or subsection 4 of NRS 640C.700, after the 2-year period described in paragraph (d) of subsection 1 ends if:*
  - (1) *There is a significant likelihood that the former client will seek or require additional massage therapy from the massage therapist; or*
  - (2) *There is an imbalance of power, influence, opportunity or special knowledge held or acquired by the massage therapist as a result of the professional relationship between the massage therapist and the former client.*

**2.** *When evaluating whether a massage therapist is prohibited from engaging or attempting to engage in a sexual activity with a client or former client, the Board will consider, without limitation:*

- (a) *Documentation of a formal termination of the professional relationship between the massage therapist and the client or former client;*
- (b) *The transfer of care of the client or former client from the massage therapist to another massage therapist;*
- (c) *The duration of the professional relationship between the massage therapist and the client or former client;*

*(d) The amount of time that has passed since the last services related to the practice of massage therapy were provided to the client or former client by the massage therapist;*

*(e) The communication between the massage therapist and the client or former client after the last services related to the practice of massage therapy were provided to the client or former client and before the commencement of the personal relationship;*

*(f) The extent to which the personal or private information of the client or former client was shared with the massage therapist;*

*(g) The nature of the health condition of the client or former client, if any, during the professional relationship between the massage therapist and the client or former client and after that professional relationship ended;*

*(h) The extent of emotional dependence of the client or former client on the massage therapist, if any, and the vulnerability of the client or former client; and*

*(i) The standard cycle for revisiting a massage therapist as determined by the Board.*

**Sec. 28. 1.** *Except as otherwise provided in paragraph (c) of subsection 4 of NRS 640C.700, the consent of the client or former client does not excuse or negate the responsibility of the massage therapist to comply with sections 26 and 27 of this regulation and the provisions of NRS 640C.700 with regard to sexual activity.*

**2.** *The provisions of this sections 26 and 27 of this regulation do not prohibit:*

*(a) A massage therapist from providing health care services during the course of practicing massage on a person in the case of an emergency if the services cannot or will not be provided by a health care provider;*

*(b) Contact by a massage therapist with a client that is necessary for a legitimate health care purpose and that meets the standard of appropriate care of a massage therapist as determined by the Board; or*

*(c) Providing services related to the practice of massage therapy to a person who is in a preexisting established personal relationship with the massage therapist if there is no evidence of, or potential for, exploiting the person.*