

# Chapter 687

## 1985 REPLACEMENT PART

### Massage Technicians and Massage Businesses

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#### CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.550

Legislative review of need for agency, 182.615

Legislative report, section 16, chapter 82, Oregon Laws 1985

#### **687.071**

Expenditures without allotment prohibited in certain cases, 291.238

Military or naval service, persons relieved from payment of fees, 408 450

#### **687.081**

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280

#### **687.115**

Administrative agencies, generally, Ch. 182



**Note:** Section 18, chapter 82, Oregon Laws 1985, provides:

**Sec. 18.** ORS 687.011, 687.021, 687.031, 687.041, 687.051, 687.055, 687.057, 687.061, 687.071, 687.081, 687.086, 687.111, 687.115, 687.121, 687.125, 687.135 and 687.991 are repealed on July 1, 1990.

**687.010** [Repealed by 1955 c.492 §15]

**687.011 Definitions.** As used in this chapter:

(1) "Board" means the State Board of Massage Technicians.

(2) "Massage" means the use on the body of pressure, friction, stroking, tapping or kneading, vibration or stretching by manual or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants such as salts, powders, liquids or creams for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition.

(3) "Massage business" means the operation of a business through which massage is practiced.

(4) "Practice of massage" means the performance of massage:

(a) For purposes other than sexual contact as defined in ORS 167.002 (5);

(b) For compensation; and

(c) Either as the owner of or as an employe in a massage business.

(5) "Manual" means the use of the hands or the feet, or both, or any part of the body in the performance of massage.

(6) "Massage technician" means a person licensed under this chapter to practice massage.

(7) "Out-call massage" means massage performed by a person or business licensed pursuant to this chapter at a place other than the established place of business. [1955 c.492 §1, 1977 c.507 §1; 1979 c.89 §1, 1985 c.82 §1]

**687.020** [Repealed by 1955 c.492 §15]

**687.021 Conduct of massage business or practice of massage without license prohibited.** (1) No person shall conduct a massage business without a massage business license issued by the board.

(2) No person shall engage in or purport to be in the practice of massage without a massage technician license issued by the board.

(3) It is unlawful to advertise by printed publication or otherwise:

(a) The giving of massage treatments in this state by a person or at a place not licensed under this chapter; or

(b) The use of "massage" in the business name unless the person providing the massage and the business are licensed under this chapter. [1955 c.492 §2; 1971 c.650 §36; 1977 c.507 §2; 1979 c.89 §2, 1985 c.82 §2]

**687.030** [Amended by 1953 c.438 §2; repealed by 1955 c.492 §15]

**687.031 Application of chapter.** This chapter does not apply to:

(1) Persons licensed under any other law of this state to do any acts included in the definition of massage in ORS 687.011 or persons working under the direction of any such person.

(2) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

(3) Massage practiced at the athletic department of any institution maintained by public funds of the state or of any of its political subdivisions.

(4) Massage practiced at the athletic department of any school or college.

(5) Massage practiced as an adjunct of a nonprofit organization or corporation who employs or contracts with a licensed massage technician provided:

(a) Massage services are provided within its facility;

(b) The facility complies with all applicable sanitary requirements; and

(c) The nonprofit organization or corporation furnishes the board with documentation that the sanitary requirements have been met. [1955 c.492 §12; 1985 c.82 §3]

**687.040** [Repealed by 1955 c.492 §15]

**687.041 Applications for licenses.** (1) Applications for a massage business or massage technician license shall be made to the board on forms provided by the board requiring such information as will insure the board of the applicant's eligibility for a license. Applications shall be accompanied by the application fee provided for in ORS 687.071.

(2) An application for a massage business license shall contain the following information:

(a) The legal name, address and telephone number of the applicant;

(b) The business name, business address and telephone number of the establishment or proposed establishment and a description of the premises on which the business will be conducted;

(c) The names of all persons, except bona fide employes on regular salaries or commissions, who are financially interested in the operation of the massage business, together with the amount of their respective financial interests, and if a corporation, the names of its officers and directors; and

(d) The name of the manager of the establishment or proposed establishment.

(3) Applications for any license under this chapter shall contain information stating whether the applicant or any person named in the application has ever been convicted of a crime exclusive of minor traffic offenses and if so, stating where and when.

(4) The board may require that any applicant for license under this chapter submit to fingerprinting or that any person named in an application do so. It may also require the photograph of any such person.

(5) All law enforcement agencies in this state shall cooperate with the board in the administration of this chapter and shall investigate and report to the board their findings when requested as to the conviction of any person named in an application of crimes within or outside this state. [1955 c.492 §3; 1957 c.166 §1; 1977 c.507 §6; 1979 c.89 §3]

**687.050** [Repealed by 1955 c.492 §15]

**687.051 Qualifications of applicants.**

(1) To be eligible for a massage business license:

(a) The applicant shall have furnished the board with any personal references required by rule of the board.

(b) The massage business premises and facilities shall comply with the standards of the board established under ORS 687.121 as determined by inspection by a representative of the board.

(c) The establishment shall be under the management of a licensed massage technician who is present on the premises during operating hours.

(2) To be eligible for a massage technician license after January 1, 1986, the applicant:

(a) Shall have furnished the board with any personal references required by rule of the board.

(b) Shall have attained the age of 18 years.

(c) Shall have furnished the board with educational certificates or transcripts required by law or rule of the board including the subjects listed in paragraph (d) of this subsection.

(d) Shall have successfully completed a certified class consisting of a minimum of 30 contact-hours in each of the following: Anatomy, physiology, kinesiology, basic massage technique

including hydrotherapy, pathology and a current standard first aid and cardiopulmonary resuscitation certification.

(e) Shall have passed a written, oral and practical examination prepared and conducted by the board establishing competency and ability to engage in the practice of massage. The examination shall require the applicant to demonstrate a basic knowledge in the following subjects but not limited to: Anatomy, physiology, hygiene, manual and mechanical massage, hydrotherapy, kinesiology, pathology and massage statutes and rules.

(f) Shall have submitted the application with payment for licensing within one year after notification of having passed the qualifying examination. [1955 c.492 §4, 1957 c.166 §2; 1977 c.507 §7; 1979 c.89 §4; 1985 c.82 §4]

**687.055 Who may be issued license.**

Massage business licenses shall be issued by the board only as follows:

(1) To a natural person operating as a sole proprietor under the name of the person or under a bona fide assumed business name.

(2) To two or more natural persons operating as a partnership under their own names or under a bona fide assumed business name.

(3) To a bona fide corporation whose majority shareholder or shareholders are natural persons who are also licensed to operate the massage business. [1977 c.507 §5; 1985 c.82 §6]

**687.057 License by indorsement.** (1)

The board may license by indorsement, without examination, any individual who applies therefor, meets the requirements as established by the board and, on the date of making application, is a massage technician licensed under the laws of any other state or territory of the United States if the requirements in the state or territory in which the applicant is licensed are not less than those required in this chapter.

(2) The board may license by indorsement, without examination, any individual who applies therefor who is already licensed under any other law of this state to do any acts included in the definition of massage in ORS 687.011 or persons working under the direction of such person.

(3) Each applicant under this section shall pay a fee of \$25 to the board at the time of filing an application under this section. [1977 c.507 §18, 1985 c.82 §7]

**687.060** [Repealed by 1955 c.492 §15]

**687.061 Expiration and renewal of license.** Licenses issued under this chapter shall

expire on December 31 of all even-numbered years for massage technicians and on December 31 of all odd-numbered years for massage business licenses and may be renewed every other year thereafter on application to the board and payment of the renewal fee by December 1 of the license year. If the renewal fee is not paid by December 1, a delinquent fee shall be paid in the amount of \$10. Renewal of licenses may be made within three years after the date of expiration upon payment of the renewal fee for the license year plus the \$10 delinquent fee. [1955 c.492 §5; 1977 c.507 §8; 1979 c.89 §5, 1985 c.82 §8]

**687.070** [Repealed by 1955 c.492 §15]

**687.071 Fees; how determined; examinations; disposition and use of moneys.** (1) Fees shall be imposed for the following:

- (a) Massage business license.
- (b) Massage technician's license.
- (c) Examinations and reexaminations.

(2) The board shall examine or reexamine any applicant for a massage technician license who pays a fee for each examination and who meets the requirements of ORS 687.051 (2).

(3) All moneys received by the Health Division shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of this chapter.

(4) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, the fees and charges established under this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the board's budget, as modified by the Emergency Board or future sessions of the Legislative Assembly. [1955 c.492 §6; 1957 c.166 §3; 1973 c.427 §32; 1977 c.217 §1, 1977 c.507 §9; 1979 c.89 §6; 1983 c.227 §1]

**687.080** [Repealed by 1955 c.492 §15]

**687.081 Grounds for denial, suspension or revocation of license.** The board may refuse to grant or renew any license under this chapter or suspend or revoke any such license if the licensee:

- (1) Has violated any provision of this chapter or any rule of the board adopted under ORS 687.121.
- (2) Has made any false representation or statement to the board in order to induce or prevent action by the board.

(3) In the case of a massage technician, has a physical or mental condition that makes the technician unable to conduct safely the practice of massage.

(4) Is habitually intemperate in the use of alcoholic beverages or is addicted to the use of habit-forming drugs or controlled substances.

(5) Has misrepresented to any patron any services rendered.

(6) Has been convicted of a crime that bears a demonstrable relationship to the practice of massage.

(7) Fails to meet with any requirement under ORS 687.051.

(8) In the case of a massage business, employs an unlicensed person to perform massage.

(9) Violates any provision of ORS 167.002 to 167.027. [1955 c.492 §9; 1977 c.507 §10; 1979 c.89 §7; 1979 c.744 §58; 1985 c.82 §9]

**687.086 License denial procedure; promulgation and review of rules and board orders.** (1) Where the board proposes to refuse to grant or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550. The board may designate the Assistant Director for Health or the designee of the assistant director or other competent person to preside at such hearing.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.550. [1971 c.734 §138; 1977 c.507 §11]

**687.090** [Repealed by 1955 c.492 §15]

**687.091** [1955 c.492 §10; repealed by 1971 c.734 §21]

**687.100** [Repealed by 1955 c.492 §15]

**687.101** [1955 c.492 §11; repealed by 1971 c.734 §21]

**687.110** [Repealed by 1955 c.492 §15]

**687.111 Inspections; reports.** (1) The board or any of its authorized representatives shall, at any time and at least once in each licensing period, visit and inspect the premises of each massage business in order to ascertain whether it is conducted in compliance with law, including the provisions of this chapter and the rules of the board adopted under ORS 687.121 (1).

(2) The operator of every massage business shall furnish to the board such reports and information as the board may reasonably require.

(3) The massage business license and the license of each massage technician practicing massage in the establishment shall be posted in a

conspicuous place on the premises of each massage business. [1955 c.492 §8; 1977 c.507 §12; 1979 c.89 §8; 1981 c.398 §1, 1985 c.82 §10]

**687.115 State Board of Massage Technicians; members; appointment; terms; confirmation.** A State Board of Massage Technicians in the Health Division is created. The board shall be composed of five members, four of whom shall be licensed massage technicians and one of whom shall be a public member selected from a health related field who shall be appointed by the Governor for terms of four years. Members serve at the option of the Governor. All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [1971 c.650 §37, 1973 c.792 §42; 1977 c.217 §2; 1977 c.507 §13; 1985 c.82 §11]

**Note:** 687.115 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 687 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**687.120** [Repealed by 1955 c.492 §15]

**687.121 Rules.** The board may adopt rules:

(1) Establishing reasonable standards concerning the sanitary, hygienic and healthful conditions of premises and facilities used by persons engaged in the massage business and of the conduct and operation of massage businesses.

(2) Relating to the methods and procedures used in the practice of massage.

(3) Governing the examination and investigation of applicants for the licenses issued under this chapter and the issuance, renewal, suspension and revocation of such licenses.

(4) Setting standards for certifying classes under ORS 687.051. [1955 c.492 §7; 1977 c.507 §14; 1985 c.82 §12]

**687.125 Enforcement.** The board shall report to the proper district attorney all cases that in the judgment of the board warrant prosecution. The district attorney will conduct such investigation as is necessary. Every police officer, sheriff or other peace officer in this state shall investigate every alleged violation of this chapter coming to notice or of which the police officer, sheriff or other peace officer has received complaint, and shall apprehend and arrest all violators. The proper district attorney shall prosecute violations of this chapter. [1977 c.507 §17]

**687.130** [Repealed by 1955 c.492 §15]

**687.135 Scope of license.** Nothing in this chapter prohibits a licensed massage business from operating sauna or other types of baths in connection therewith. [1977 c.507 §4]

**687.140** [Repealed by 1955 c.492 §15]

**687.150** [Repealed by 1955 c.492 §15]

**687.160** [Repealed by 1955 c.492 §15]

**687.170** [Repealed by 1955 c.492 §15]

**687.180** [Repealed by 1955 c.492 §15]

**687.190** [Repealed by 1955 c.492 §15]

**687.200** [Repealed by 1955 c.492 §15]

**687.210** [Repealed by 1955 c.492 §15]

**687.220** [Repealed by 1955 c.492 §15]

**687.230** [Repealed by 1955 c.492 §15]

**687.240** [Repealed by 1955 c.492 §15]

**687.990** [Repealed by 1955 c.492 §15]

**687.991 Penalties.** Violation of ORS 687.021 or of any rule adopted under ORS 687.121 is a Class A misdemeanor. [1955 c.492 §14; 1977 c.507 §15]