

Chapter 687

1991 EDITION

Massage Technicians

687.011 Definitions
687.021 Practice of massage without license prohibited
687.031 Application of chapter
687.041 Applications for licenses
687.051 Qualifications of applicants
687.057 License by indorsement
687.061 Expiration and renewal of license
687.071 Fees; how determined; examinations; disposition and use of moneys
687.081 Grounds for denial, suspension or revocation of license; civil penalties
687.086 License denial procedure; review of rules and board orders
687.115 State Board of Massage Technicians; members; appointment; terms; confirmation; compensation
687.121 Rules
687.122 Investigation of violations; power of board; subpoenas
687.123 Inspection of premises

687.125 Enforcement
687.895 Civil penalties
687.991 Criminal penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.550
Legislative review of need for agency, 182.615
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

OCCUPATIONS AND PROFESSIONS

Note: Section 18, chapter 82, Oregon Laws 1985, as amended by section 15, chapter 841, Oregon Laws 1989, provides:

Sec. 18. ORS 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.061, 687.071, 687.081, 687.086, 687.115, 687.121, 687.125 and 687.991 are repealed on July 1, 1994. [1985 c.82 §18; 1989 c.841 §15]

687.010 [Repealed by 1955 c.492 §15]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) "Certified class" means a class that is approved by the board and is offered:

(a) By a person or institution licensed as a private vocational school under ORS 345.010 to 345.470;

(b) By a community college and approved by the Division of Vocational Education of the Department of Education; or

(c) In another state and licensed or approved by the appropriate agency in that state.

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

(4) "Massage" or "massage therapy" 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.

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

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

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

(b) For compensation. [1955 c.492 §1; 1977 c.507 §1; 1979 c.89 §1; 1985 c.82 §1; 1987 c.158 §144; 1989 c.841 §1]

687.020 [Repealed by 1955 c.492 §15]

687.021 Practice of massage without license prohibited. (1) No person shall engage in or purport to be in the practice of massage without a massage technician license issued by the State Board of Massage Technicians.

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

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

(b) The use of "massage" in the business name unless the person providing the massage is licensed under this chapter. [1955 c.492 §2; 1971 c.650 §36; 1977 c.507 §2; 1979 c.89 §2; 1985 c.82 §2; 1989 c.841 §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 technician license shall be made to the State Board of Massage Technicians 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) Applications for any license under this chapter shall contain information stating whether the applicant has ever been convicted of a crime exclusive of minor traffic offenses and if so, stating where and when.

(3) The board may require that any applicant for license under this chapter submit to fingerprinting. It may also require the photograph of any such person.

(4) 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; 1989 c.841 §3]

687.050 [Repealed by 1955 c.492 §15]

687.051 Qualifications of applicants. (1)

To be eligible for a massage technician license after July 1, 1991, the applicant:

(a) Shall have furnished the State Board of Massage Technicians 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 completed a minimum of 330 contact hours of certified classes in the following subjects: Anatomy and physiology, kinesiology, pathology, hydrotherapy and hands-on practicum or basic massage technique and professional practices, including sanitation and ethics. The board by rule may set the minimum number of required hours for each subject.

(e) Shall have furnished the board with evidence of safety related training, prescribed by rule of the board for not to exceed 12 hours every two years, including but not limited to cardiopulmonary resuscitation certification and first aid certification.

(f) 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.

(g) Shall have submitted the application with payment for licensing within one year after notification of having passed the qualifying examination.

(2) To be eligible for inactive status, a licensed massage technician must not be practicing massage in this state.

(3) The board shall issue a special certificate of achievement to a licensed massage technician who qualifies with 500 contact hours of certified classes, which shall include the 330 contact hours prescribed by subsection (1) of this section. [1955 c.492 §4; 1957 c.166 §2; 1977 c.507 §7; 1979 c.89 §4; 1985 c.82 §4; 1989 c.841 §4]

687.055 [1977 c.507 §5; 1985 c.82 §6; repealed by 1989 c.841 §14]

687.057 License by indorsement. (1)
The State Board of Massage Technicians may license by indorsement, after successful completion of a practical examination, any individual who applies therefor, meets the requirements as established by rule of 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, after successful completion of a practical 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.

(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; 1989 c.841 §5]

687.060 [Repealed by 1955 c.492 §15]

687.061 Expiration and renewal of license. Licenses issued under this chapter expire on December 31 of all even-numbered years for massage technicians and may be renewed every other year thereafter on application to the State Board of Massage Technicians 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. 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 delinquent fee. [1955 c.492 §5; 1977 c.507 §8; 1979 c.89 §5; 1985 c.82 §8; 1989 c.841 §6]

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 technician license.
- (b) Examinations and reexaminations.
- (c) Inactive status.
- (d) Delinquency in renewal of a license.

(2) If the effective period of the initial massage technician license is to be less than 12 months by reason of the statutorily required expiration date, the required license fee shall be prorated to represent one-half of the biennial rate.

(3) The State Board of Massage Technicians 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 (1).

(4) 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 are appropriated continuously and shall be used only for the administration and enforcement of this chapter.

(5) Subject to prior approval of the Executive Department and a report to the Emergency Board prior to adopting the fees and charges, 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 within the board's budget, as the budget may be modified by the Emergency Board. [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; 1989 c.841 §7; 1991 c.703 §30]

687.080 [Repealed by 1955 c.492 §15]

687.081 Grounds for denial, suspension or revocation of license; civil penalties.

(1) The State Board of Massage Technicians may refuse to grant or renew any license under this chapter or suspend or revoke any such license if the licensee:

(a) Has violated any provision of this chapter or any rule of the board adopted under ORS 687.121.

(b) Has made any false representation or statement to the board in order to induce or prevent action by the board.

(c) Has a physical or mental condition that makes the technician unable to conduct safely the practice of massage.

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

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

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

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

(h) Violates any provision of ORS 167.002 to 167.027.

(2) In addition to the discipline described in subsection (1) of this section, the board may impose a civil penalty not to exceed \$1,000 for any violation of ORS 687.011 to 687.125. Such funds shall be credited to the General Fund and shall be available for general governmental expenses. [1955 c.492 §9; 1977 c.507 §10; 1979 c.89 §7; 1979 c.744 §58; 1985 c.82 §9; 1989 c.841 §8]

687.086 License denial procedure; 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]

687.087 [1989 c.841 §§9, 12; 1991 c.734 §74; renumbered 687.895 in 1991]

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 [1955 c.492 §8; 1977 c.507 §12; 1979 c.89 §8; 1981 c.398 §1; 1985 c.82 §10; repealed by 1989 c.841 §14]

687.115 State Board of Massage Technicians; members; appointment; terms; confirmation; compensation.

(1) 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.

(2) Members are entitled to compensation and expenses as provided in ORS 292.495. [1971 c.650 §37; 1973 c.792 §42; 1977 c.217 §2; 1977 c.507 §13; 1985 c.82 §11; 1989 c.69 §2]

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 State Board of Massage Technicians may adopt rules:

(1) Establishing reasonable standards concerning the sanitary, hygienic and healthful conditions of premises and facilities used by massage technicians.

(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.

(5) Requiring that massage technicians supply the board with the accurate, current address or addresses where they practice massage.

(6) Fixing the educational, training and experience requirements for licensing by indorsement.

(7) Establishing requirements for issuance and retention of an inactive license. [1955 c.492 §7; 1977 c.507 §14; 1985 c.82 §12; 1989 c.841 §13]

687.122 Investigation of violations; power of board; subpoenas. (1) Upon the complaint of any citizen of this state, or upon its own motion, the State Board of Massage Technicians may investigate any alleged violation of ORS chapter 687.

(2) In the conduct of investigations, the board may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon. [1989 c.843 §8]

687.123 Inspection of premises. Upon complaint about the premises on which a massage technician practices massage, the State Board of Massage Technicians or its authorized representative may inspect such

premises in order to determine whether the premises meet the standards set by order of the board under ORS 687.121 (1). [1989 c.841 §17]

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 [1977 c.507 §4; repealed by 1989 c.841 §14]

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]

687.895 Civil penalties. Any civil penalty under this section and ORS 205.130, 687.011, 687.021, 687.041 to 687.081, 687.121 and 687.123 shall be imposed as provided in ORS 183.090. [Formerly 687.087]

687.990 [Repealed by 1955 c.492 §15]

687.991 Criminal 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]