

Legislative Director's Report

Keeping our TMTA members up to date on any Legislative happenings in Tennessee ...

Priority News:

Establishment Licenses are now available to renew online, as of July 23rd, 2021. As with LMT license renew, the window for online renewal is 65-90 days. If there are ANY changes to your Establishment license, you can NOT renew online, you MUST contact the board office. Also (and probably most important) ... **if you choose to renew online, you must provide proof of the 2-hour TN Law class taken in the current cycle**, that is what the system requires. Please do not call board staff to complain, it is out of their control.

Referring to the Commissioner's Policy 21-1 (link below), any CE classes taken through December 31st, 2021, that were "obtained through non in-person/live methods" will be accepted toward your current CE cycle (Jan 1st, 2021 to Dec 31st, 2022), with the exception of TN Law which must still be either in-person or live webinar format. Any classes taken January 1st, 2022, until the end of the current cycle must be obtained as required by current CE policy (0870-01-.12).

Commissioner's Policy 21-1 link:

<https://www.tn.gov/content/dam/tn/health/healthprofboards/Policy-on-Continuing-Education.pdf>

A clarification and update from the legislative liaison's office regarding **Public Chapter 357** (Establishment license in Chiropractic, Medicine and Surgery, and Osteopathic Physicians offices)

<https://www.tn.gov/content/dam/tn/health/healthprofboards/massage/applications-%26-policies/ChiropolicystatementP357.Massage.pdf>

To summarize the Position Statement from the Chiropractic Board:

1. Chiropractic must be the primary treatment of the facility. There can be many different treatments offered (chiropractic, massage, nutrition, acupuncture, etc.) at that location, but **"Chiropractic MUST BE the primary treatment at said facility"**.
2. This only applies to massage offered **WITHIN** the facility. If you are offering massage any place else, please refer to the TN Massage rules and policies governing those massages.
3. The "Chiropractic office must maintain a current copy of the active license of all Massage Therapist providing services in said facility".

Statistical report: (as of August 3rd, 2021)

Therapists:

Active Licensees 4482

Establishments:

Active Licensees 1603

Office of General Counsel (OGC):

Litigation:

The OGC currently has about 107 open cases to the Massage Licensure Board.

Rulemaking:

The rulemaking to increase fees is moving forward internally in OGC, and we expect to have a rulemaking hearing at the November 2021 meeting. We are also moving forward with the reciprocity licensure rule revisions, but that will be a separate rulemaking.

Legislation:

There were a few bills that were passed in the TN state legislature that have minor implications on massage:

- ~ **Public Chapter 37** ~ This act prohibits agencies subject to sunset review from promulgating rules or adopting policies to exempt members solely by virtue of their status as members. This act took effect March 23, 2021.
- ~ **Public Chapter 242** ~ This act authorizes records custodians to petition a court for injunctive relief from individuals making frequent public records requests with the intent of disrupting government operations, following a fifth (5th) public records request. A records custodian can only petition a court if they notify the person in writing stating the specific conduct may constitute intent to disrupt government operations, and that the person continues to do so. The individual upon a court injunction would not be able to make public requests at the agency for up to one (1) year. This chapter took effect April 28th, 2021 and will sunset July 1, 2025.
- ~ **Public Chapter 291** ~ This act requires the attorney general and reporter to not approve an emergency rule if the emergency rule does not meet the statutory criteria for adoption of the rule. This act took effect July 1, 2021.
- ~ **Public Chapter 328** ~ This act requires that starting December 1, 2023, state agencies submit a report of their effective rules to the chairs of the government operations committee every eight (8) years. The report is required to include a brief description of the department's operations that each chapter affects, as well as each rule and its administrative history, which would include the original promulgated date and the dates the rule was last amended, if applicable. Additionally, the report would include a determination of each rule on whether it adheres to current state or federal law or court rulings, should be amended or repealed, reviewed further, or continue in effect without amendment. Lastly, if there are any intentionally false statements in the report, the government operations committee would have the ability to vote to request the general assembly to remove a rule or suspend the department's rulemaking authority for any reasonable period of time. This act took effect July 1, 2021.
- ~ **Public Chapter 453** ~ This act requires public or private entities or businesses that operate a building open to the general public to post signage regarding public restroom access in certain situations. Specifically, this applies to entities or businesses that have restroom policies allowing either biological sex to use any public restroom within their building. The act includes requirements for language, size, location, and even color for the signage. The act excludes unisex, single occupant restrooms or family restrooms intended for use by either sex. This act took effect July 1, 2021. **This bill is currently enjoined.**
- ~ **Public Chapter 531** ~ This act limits an agency's authority to promulgate rules without a public hearing. There are exceptions to the public hearing requirement. These exceptions include emergency rules, rules that are non-substantive modifications to existing rules (like clerical updates), rules that repeal existing rule, or rules that eliminate or reduce a fee described by an existing rule. This act took effect July 1, 2021.
- ~ **Public Chapter 532** ~ This act authorizes the joint government operations committee to stay an agency's rule from going into effect for a period of time not to exceed ninety (90) days. If the government operations committee determines that subsequent stays are necessary, then the joint committee may issue consecutive stays, each for an additional ninety (90) day period, so long as such stays do not extend beyond the fifth legislative day

of the year following the year in which the rule is filed with the secretary of state. The initial stay may be done by either the house or senate government operations committee, but subsequent stays must be by agreement by the committees of both chambers. A stay is effective when the respective committee files written notice with the secretary of state, and the respective committee shall specify the length of effectiveness of the stay. This act took effect May 25, 2021.

General Information:

For Your Information:

A reminder for therapists - licensure renewals can be done online by visiting the board's website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/ml-board/ml-board/licensure.html>

The next regularly scheduled meeting of the TN massage board will take place on November 8th & 9th, 2021 at 9am at 665 Mainstream Drive in Nashville, TN. If you are unable to make it there in person, you are now able to watch it via livestreaming. And here's how ... click on the link <https://www.tn.gov/health/calendar.massage-licensure.html>, then choose "VIEW EVENT", then click on "ATTACHMENT" it will take you to the sunshine notice of the meeting - choose the "LINK TO LIVE STREAM" for the day you are wanting to watch. Or you can visit our TMTA Facebook page (<https://www.facebook.com/TMTA-122407286744725>) and the link will be posted there also.



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Tennessee Massage Therapy Association