

309.362 Grounds for refusal to issue or renew a license, suspension or revocation of a license, administrative reprimand, or probation -- Issuance and renewal of inactive licenses -- Fee.

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
 - (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
 - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
 - (c) Violating any lawful order or administrative regulation promulgated by the board;
 - (d) Violating any provision of this chapter or administrative regulations promulgated thereunder;
 - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;
 - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner;
 - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy;
 - (h) Violating the standards of practice or the code of ethics as promulgated by administrative regulations;
 - (i) Violating KRS 304.39-215; or
 - (j) Engaging in conduct that is subject to the penalties under KRS 304.99-060(4) or (5).
- (2) Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.
- (3) To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education may be approved at the discretion of the board. Beyond five (5) years, the

licensee shall meet the requirements in KRS 309.358.

- (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.
- (5) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 143, sec. 6, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 158, sec. 45, effective June 29, 2017. -- Amended 2006 Ky. Acts ch. 29, sec. 9, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 13, effective June 24, 2003; and ch. 70, sec. 13, effective June 24, 2003.

Legislative Research Commission Note (6/24/2003). 2003 Ky. Acts ch. 45, sec. 13, and 2003 Ky. Acts ch. 70, sec. 13, are substantially identical and have been codified together.