

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 532

Department or Agency: Alabama Board of Massage Therapy

Rule No.: Chapter 532-X-4

Rule Title: Examination Process

Intended Action Repeal and Replace

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Peggy Benson

Peggy Benson, AL

Date

Monday, July 1, 2024

REC'D & FILED
JUL 1, 2024
LEGISLATIVE SVC AGENCY

ALABAMA BOARD OF MASSAGE THERAPY

NOTICE OF INTENDED ACTION

AGENCY NAME: Massage Therapy Licensing Board, Alabama

RULE NO. & TITLE: Chapter 532-X-4 Examination Process

INTENDED ACTION: Repeal and Replace

SUBSTANCE OF PROPOSED ACTION:

The Alabama Board of Nursing, acting as the Alabama Board of Massage Therapy as provided by Alabama Act No. 2024-361 (the act), proposes repealing and replacing Chapter 532-X-4 to facilitate implementation of the act. As rules proposed for the purpose of implementing a state law, this proposal is excepted from the provisions of Executive Order 735.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

The Board will accept written or verbal comments until 4:30 pm, Central time, on Wednesday, September 4, 2024. Comments may be directed to Alabama Massage Therapy Licensing Board, PO Box 301011, Montgomery, AL 36130, or almtb@almtb.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 4, 2024

CONTACT PERSON AT AGENCY:

Peggy Benson

Peggy Benson

Peggy Benson, AL

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

~~ALABAMA BOARD OF MASSAGE THERAPY
ADMINISTRATIVE CODE~~

~~CHAPTER 532-X-4
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~~532-X-4-.01 Examinations~~

~~532-X-4-.01 Examinations.~~

~~(1) The Board may approve any national standardized examination.~~

~~**Author:** Keith E. Warren~~

~~**Statutory Authority:** Code of Ala. 1975, §34-43-10.~~

~~**History: New Rule:** Filed January 29, 2001; effective March 5, 2001. **Amended:** Filed November 9, 2006; effective December 14, 2006. **Amended:** Published September 29, 2023; effective November 13, 2023.~~

ALABAMA MESSAGE THERAPY LICENSING BOARD
ADMINISTRATIVE CODE

CHAPTER 532-X-4
MESSAGE THERAPY ESTABLISHMENT LICENSURE AND STANDARDS

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532-X-4-.01 **Message Therapy Establishment License Required.**

(1) No massage therapy establishment shall operate in Alabama without a license issued by the board.

(2) There shall be a physical location for each licensed massage therapy establishment.

(3) A licensed massage therapy establishment may provide on-site or out-call services as defined in these rules, provided that:

(a) Such services are provided by a licensed massage therapist who is registered to the licensed massage therapy establishment.

(b) The client is made aware that the licensed massage therapist performing the services is the owner of or is employed by or contracted from the licensed massage therapy establishment.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: Code of Ala. 1975, §34-43A-6

History: **New Rule:** Filed January 29, 2001; effective March 5, 2001. **Amended:** Filed November 9, 2006; effective December 14, 2006. **Amended:** Published September 29, 2023; effective November 13, 2023. **Repealed and New Rule:** Published ; effective

532-X-4-.02

Requirements for Licensed Massage Therapy Establishments.

(1) A licensed massage therapy establishment must demonstrate and maintain the following requirements:

(a) Right to occupy the premises as demonstrated by a deed, lease, or other document establishing lawful possession in the name of the sole proprietor, corporation, limited liability company, or partnership that holds a massage therapy establishment license.

(b) Proof of coverage demonstrating that the licensed massage therapy establishment possesses professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars.

(c) Compliance with state and local fire and safety requirements.

(d) A fire extinguisher in good working condition.

(e) Provision for extermination of vermin, insects, termites, and rodents.

(f) Laundering or sanitation of all equipment and linens or other materials furnished for use of the customer or client, prior to reuse, if applicable.

(g) Maintenance of equipment in a safe and sanitary condition.

(h) Adequate toilet and lavatory facilities with running water, equipped with toilet tissue, soap dispenser with soap or other hand cleansing materials, sanitary towels or hand-drying devices, waste receptacle, with adequate lighting and ventilation sufficient to remove objectionable odors.

(i) Adequate and sanitary shower facilities if the establishment maintains a whirlpool bath, sauna, hot tub, spa, steam cabinet or steam room; the shower, if any, is to be equipped with soap, sanitary cloth towels, and adequate lighting and ventilation.

(j) Clean drape material (towel, sheet, blanket, linen) for draping clients during the massage.

(k) Documentation of all massage therapy appointments, whether the appointments are provided at the licensed massage therapy establishment or are out-call or onsite appointments.

1. Appointments shall be documented prior to commencement of the massage therapy services.

2. There shall be no undocumented massage therapy appointments.

3. Documentation of appointments shall be maintained on the premises of the licensed massage therapy establishment and available for inspection.

4. Documentation shall include the name of the client(s) who will receive massage therapy services at the appointment, the name of the licensed massage therapist(s) performing the massage therapy services, the location at which the massage therapy services will occur, the type and duration of the massage therapy services to be performed, and the date and time at which the massage therapy services will occur.

5. Maintain current and post appointment calendar records on site for a minimum of three (3) years.

6. Provide for the secure storage of confidential client information.

(2) A massage therapy establishment shall contract with or employ only licensed massage therapists to perform massage therapy.

(3) Effective October 1, 2024, a massage therapy establishment shall ensure that, prior to permitting a licensed massage therapist to perform massage therapy at or for a massage therapy establishment, the licensed massage therapist is registered with the board to perform massage therapy at or for the licensed massage therapy establishment.

(4) A massage therapy establishment shall ensure, at all times, that one licensed massage therapist is registered with the board as the designee who will ensure that the massage therapy establishment complies with state law and all administrative rules.

(5) Any advertisement by a massage therapy establishment shall include the license number of the massage therapy establishment.

(6) Each massage therapy establishment shall prominently post its license and the license of each massage therapist who practices within the massage therapy establishment in plain sight at the massage therapy establishment.

(7) A licensed massage therapy establishment shall not be used as an overnight sleeping accommodation. A licensed massage therapy establishment may petition the board for an exception to this

requirement if the establishment is also the residence of a sole proprietor licensee and the licensed massage therapy establishment demonstrates that the overnight sleeping accommodations are used only by the sole proprietor or the sole proprietor's immediate family.

(8) A licensed massage therapist who is an owner, employee, or contractor of a licensed massage therapy establishment may perform on-site or out-call massage therapy so long as the client knows the massage therapist owns, is employed by, or contracted from a licensed establishment. When performing on-site or outcall massage therapy services, the licensed massage therapist shall take the following items to the appointment:

(a) A copy of the massage therapy establishment license and a copy of the massage therapist license for the licensed massage therapist performing the massage therapy services.

(b) All sanitized equipment necessary to perform the massage therapy services.

(c) Clean drape material (towel, sheet, blanket, linen) for draping clients during the massage.

(9) If the physical location of a massage therapy establishment has been shut down by the board or by local, state, or federal law enforcement, the physical location is permanently prohibited from being licensed or operating as a massage therapy establishment.

(10) A massage therapy establishment may not advertise or offer to perform services on any sexually explicit website or online platform that promotes prostitution, sexually explicit services, or human trafficking.

(11) A sexually oriented business may not operate as a massage therapy establishment or be licensed by the board.

(12) A licensed massage therapy establishment shall comply with the Code of Ethics for Licensed Massage Therapy Establishments.

(13) A licensed massage therapy establishment shall comply with all state, federal, and local laws.

(14) A licensed massage therapy establishment which provides only on-site or out-call massage therapy services and which does not provide any massage therapy services on the premises of the massage therapy establishment may request exemption from the requirements of paragraph (1)(c), (d), (h) and (i).

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: New Rule: Published ; effective .

532-X-4-.03 **Massage Therapist Establishment Initial License Application.**

(1) An applicant for a massage therapy establishment license shall be the owner, lessee, or legal possessor of the physical establishment.

(a) If the massage therapy establishment is owned, leased, or legally possessed by a sole proprietor (individual person, sole owner/officer of a corporation, or sole member of a limited liability company), the individual who is a sole proprietor shall apply for the massage therapy establishment license and shall be considered the "applicant" for all purposes in these rules.

(b) If the massage therapy establishment is owned, leased, or legally possessed by a partnership, corporation, or limited liability company, each owner/director/officer of a corporation, each partner in a partnership, and each member of a limited liability company, shall be considered the "applicant" for all purposes in these rules.

(c) The applicant requesting an initial establishment license shall present in person their application to the Board for consideration and/or approval.

(2) An applicant for a massage therapy establishment license shall submit:

(a) A completed application on a Board-approved form.

(b) Required fees.

(c) Proof of the applicant's right to occupy the premises as demonstrated by a deed, lease, or other document establishing lawful possession in the name of the sole proprietor, corporation, limited liability company, or partnership applying for a massage therapy establishment license.

(d) Proof of coverage demonstrating that the applicant possesses professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars.

(e) The fingerprint card and form (see Chapter 532-X-8)

1. An applicant for a massage therapy establishment license, who is a massage therapist and has completed a criminal history background check pursuant to Chapter 532-X-8 within the preceding two years, is exempt from completing a criminal history background check.

(3) If the applicant's United States citizenship has not previously been established pursuant to the requirements of Code of Alabama § 31-13-7, a completed Citizenship or Lawful Presence Checklist and supporting documentation.

(4) A two-by-two-inch photograph showing a frontal view of the head and shoulders of the applicant taken no more than six months earlier than the date of submission.

(5) If the establishment will be operated under a name other than that of the sole proprietor, corporation, limited liability company, or partnership, the name under which the establishment will be operated must be identified and will be included on the establishment license when issued.

(a) The physical location of a proposed massage therapy establishment shall be subject to an initial inspection by the board before a massage therapy establishment license is granted to the applicant.

(b) An affirmative vote of a majority of the members of the board shall be required to grant a license to operate a massage therapy establishment.

(c) A massage therapy establishment license is not assignable or transferable.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: New Rule: Published _____ ; effective _____.

532-X-4-.04 Massage Therapy Establishment License Renewal.

(1) Each massage therapy establishment license shall be renewed biennially, on or before the anniversary date of the license.

(2) Any massage therapy establishment license not renewed biennially on or before the anniversary date shall expire.

(3) The licensed massage therapy establishment shall submit to the Board:

(a) Proof of the massage therapy establishment's right to occupy the premises as demonstrated by a deed, lease, or other document establishing lawful possession in the name of the sole proprietor, corporation, limited liability company, or partnership applying for a massage therapy establishment license.

(b) Proof of coverage demonstrating that the licensed massage therapy establishment possesses professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars.

(c) The fingerprint card and form (see Chapter 532-X-8) 1. A licensed massage therapist establishment applying for renewal who is also a licensed massage therapist and who has completed a criminal history background check pursuant to Chapter 532-X-8 within the preceding two years, is exempt from completing a criminal history background check.

(d) If the applicant's United States citizenship has not previously been established pursuant to the requirements of Code of Alabama § 31-13-7, a completed Citizenship or Lawful Presence Checklist and supporting documentation.

(e) A two-by-two-inch photograph showing a frontal view of the head and shoulders of the applicant taken no more than six months earlier than the date of submission.

(f) If the establishment operates under a name other than that of the sole proprietor, corporation, limited liability company, or partnership, the name under which the establishment operates must be identified and will be included on the establishment license when issued. (4) An affirmative vote of a majority of the members of the board shall be required to deny the renewal of a license to operate a massage therapy establishment.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: **New Rule:** Published ; effective .

532-X-4-.05

Licensed Massage Therapy Establishment Change of Location.

(1) If the holder of a massage therapy establishment license moves the location of the massage therapy establishment without changing either the name or ownership of that massage therapy establishment, the board shall waive the new establishment license fee, provided that the holder of the massage therapy establishment license provides the following documentation:

(a) Proof of the massage therapy establishment's right to occupy the new premises as demonstrated by a deed, lease, or other document establishing lawful possession in the name of the sole proprietor, corporation, limited liability company, or partnership applying for a massage therapy establishment license.

(b) Proof that the licensed massage therapy establishment has vacated the prior location or is required to vacate the prior location by a date-certain within sixty (60) days of the request.

(2) The expiration date of the massage therapy establishment license shall not change.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: **New Rule:** Published ; effective .

532-X-4-.06

Code of Ethics for Licensed Massage Therapy Establishments..

(1) The license massage therapy facility must comply with all legal requirements in the applicable jurisdictions and meet the established code of ethics include in this chapter. Violations of the code of ethics may result in disciplinary action. A licensed massage therapy establishment shall:

(a) Have a sincere commitment to provide the highest quality of care in the furtherance of public protection to those who seek professional services and provide a physical setting that is safe and meets all applicable legal requirements for health and safety.

(b) Maintain required liability insurance and honestly represent all professional qualifications and affiliations.

(c) Disclose a schedule of fees in advance of the session.

(d) Make financial arrangements in advance which are clearly understood by, and safeguard the best interests of, the client or consumer.

(e) Follow Generally Accepted Accounting Principles and file all applicable municipal, state, and federal taxes.

(f) Maintain accurate financial records, contracts and legal obligations, appointment records, tax reports, and receipts, adhering to any state or federal laws.

(g) Respect the client's right to be treated with informed and voluntary consent. The licensed massage therapist and establishment shall ensure that consent is obtained and record the informed consent of the client, or client's advocate, before providing treatment.

(h) Respect the client's right to refuse, modify, or terminate treatment, regardless of prior consent given.

(i) Keep accurate and complete records on all employees working at the facility and be able to provide those records when requested.

(j) Accurately and truthfully represent the qualifications of all massage therapists who work at the facility, including education and professional affiliations, and ensure that they provide only those services they are qualified to perform.

(k) Accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline. Acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals as applicable.

(l) Conduct their business and professional activities with honesty, integrity, and respect the inherent worth of all persons. Maintain adequate client records for each client session.

(m) Advertise in a manner that is honest, dignified, accurate, and representative of services provided and remain consistent with applicable local, state, and federal laws, as well as national standards of practice.

(n) Promote his/her business with integrity and avoid potential and actual conflicts of interest.

(o) Advertise in a manner that is not misleading to the public.

(p) Comply with all laws regarding sexual harassment, human trafficking, and the practice of massage therapy, and does not discriminate against clients and/or health professionals.

(q) Safeguard the confidentiality of the client's identity and information in all conversations, advertisements, and all other matters, unless disclosure of identifiable information is requested by the client in writing, is medically necessary, or is required by law.

(r) Be accountable and responsible to not exploit the trust and dependency of others, including clients, employees, independent contractors, and coworkers.

(s) Ensure that massage therapist(s) working in the establishment are appropriately draping and providing treatment in a way that ensures the safety, comfort, and privacy of the client or the profession.

(t) Exercise the right to refuse to treat any person or part of the body for a just and reasonable cause.

(u) Avoid any interest, activity, or influence which might conflict with the practitioner's obligation to act in the best interests of the client or the profession.

(v) Respect the client's boundaries regarding privacy, disclosure, exposure, emotional expression, beliefs, as well as the client's reasonable expectations of professional behavior.

(w) Refuse any gifts or benefits that are intended to influence a referral, decision, or treatment, or that are purely for personal gain and not for the good of the client.

(x) Cause the massage therapist(s) who are working in the establishment to be fully clothed and to wear professional attire while providing massage therapy services.

(y) Monitor and prevent non-licensed person(s) from providing massage therapy services in the establishment.

(z) Immediately report any concerns about an unlicensed, illegal, or un reputable establishment to the board.

(aa) Document all massage therapy appointments, whether the appointments are provided at the licensed massage therapy establishment or are out-call or onsite appointments.

1. Appointments shall be documented prior to commencement of the massage therapy services.

2. There shall be no undocumented massage therapy appointments.

3. Documentation of appointments shall be maintained on the premises of the licensed massage therapy establishment and available for inspection.

4. Documentation shall include the name of the client(s) who will receive massage therapy services at the appointment, the name of the licensed massage therapist(s) performing the massage therapy

services, the location at which the massage therapy services will occur, the type and duration of the massage therapy services to be performed, and the date and time at which the massage therapy services will occur.

5. Maintain current and post appointment calendar records on site for a minimum of three (3) years.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: **New Rule:** Published _____; effective _____.