

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 532

Department or Agency: Alabama Board of Massage Therapy

Rule No.: Chapter 532-X-5

Rule Title: Compliance and Disciplinary Action

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

.....
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-5 Compliance and Disciplinary Action

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-5 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-5
COMPLIANCE AND DISCIPLINARY ACTION~~

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~~532-X-5-.01 Complaints.~~

~~(1) Any person may file a written and signed complaint regarding an allegation of impropriety by a licensee, establishment or person. Complaints should be referred to a standing investigative committee consisting of a Board member, the Executive Director, the Board attorney, and the Board investigator. After consideration by the investigative committee, the Board may give notice of an administrative hearing pursuant to the Alabama Administrative Hearing Act and to Sections 34-43-11 and 34-43-15 of the Code of Ala. 1975. If no probable cause is found, the investigative committee may dismiss the charges and prepare a statement, in writing, of the reasons for the decision. The statement shall be mailed to the accused party and the complaining party by registered or certified mail.~~

~~(2) For a minor violation of this chapter, the licensee, establishment or person may be given notice and an opportunity to cure the violation. The Board may enter into an informal disposition of any case by an agreed settlement or consent order.~~

~~(3) A licensee, establishment or person may request an informal or formal hearing before the Board, or may decline a hearing afforded to the licensee, establishment or person. The right to decline a hearing afforded by the Board is a personal right which is to be exercised by the licensee or person and not by his attorney or other representative acting alone, and must be exercised in writing. The party requesting a hearing is responsible for obtaining the services of any payment of the cost of the court reporter's fee, of any.~~

~~(4) The violations set forth in Sections 34-43-1, et seq. are examples of improprieties and delinquencies but not an exhaustive~~

~~list, for which the Board may suspend, fine, revoke or refuse to grant or renew a license.~~

~~(5) The Board will conduct disciplinary proceedings pursuant to the Alabama Administrative Procedures Act.~~

~~(6) The Board may institute a civil action for an injunction with penalties and costs against any person alleged to be in violation of Sections 43-34-1, et seq. The Board may present the misconduct to the local District Attorney for review and appropriate action.~~

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

~~**Statutory Authority:** Code of Ala. 1975, §§34-43-7, 34-43-15, 34-43-17, 34-43-18.~~

~~**History:** **New Rule:** Filed January 29, 2001; effective March 5, 2001. **Repealed and New Rule:** Filed April 20, 2009; effective May 25, 2009. **Repealed and New Rule:** Filed February 10, 2012; effective March 16, 2012.~~

~~532-X-5-.02 Advertising Limitations.~~

~~(1) A written advertisement by a massage therapist or a massage therapy establishment shall contain the license number of the massage therapist or establishment.~~

~~(2) No person or establishment without valid massage therapy licensure shall advertise as a massage therapist or massage therapy establishment.~~

~~(3) An establishment whose primary function is not massage therapy and for which establishment massage therapy is incidental to the primary function, may apply to the Board for an exemption from licensure as a massage therapy establishment pursuant to the procedure state above.~~

~~(4) No sexually oriented business may use the terms "massage therapy," or "bodywork" in any way form of advertising.~~

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

~~**Statutory Authority:** Code of Ala. 1975, §34-43-16.~~

~~**History:** **New Rule:** Filed January 29, 2001; effective March 5, 2001. **Amended:** Filed November 9, 2006; effective December 14, 2006. **Amended:** Filed April 20, 2009; effective May 25, 2009. **Repealed and New Rule:** Filed February 10, 2012; effective March 16, 2012.~~

~~(1) The following acts shall constitute misconduct in the practice of massage therapy for which disciplinary penalties may be imposed after opportunity to be heard pursuant to the procedure in the Alabama Administrative Procedures Act:~~

~~(a) conviction, adjudication, or a finding of guilt in any jurisdiction of a crime, which directly relates to the practice of massage therapy or to the ability to practice massage therapy. A plea of nolo contendere may be taken into consideration by the Board.~~

~~(b) false, deceptive or misleading advertising.~~

~~(c) aiding, assisting, procuring, or advertising any unlicensed person to practice massage therapy contrary to the rules and regulations of the Board or the Massage Therapy statutes.~~

~~(d) engaging in or attempting to or offering to engage a client in sexual activity, including but not limited to genital contact, within a client-massage therapist relationship.~~

~~(e) making deceptive, untrue, or fraudulent representations in the practice of massage therapy.~~

~~(f) practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.~~

~~(g) delegating professional responsibilities to a person when the licensee delegating the responsibility knows or has reason to know that the person is not qualified by training, experience, or licensure to perform those responsibilities. This shall not include acts of an enrolled student being supervised by a licensed massage therapy instructor.~~

~~(h) acting, as a massage therapist or operating a massage therapy establishment while unlicensed or with a revoked or suspended license.~~

~~(i) teaching massage therapy as a massage therapy instructor while unlicensed, unless teaching continuing education as a~~

~~visiting massage therapy instructor exempt under the statutes.~~

~~(j) refusing to allow the designated Board member(s) or investigator to inspect massage therapy premises or establishment during regular business hours.~~

~~(k) practicing massage therapy at a site which is not exempt or licensed as a massage therapy establishment, unless the massage therapy is done on-site or out-call at a location under the control of the client, or is done at an educational or trade site for demonstration purposes.~~

~~(l) failing to maintain professional and liability insurance in the practice of massage therapy, or failing to maintain liability insurance in the operation of a massage therapy establishment.~~

~~(m) failing to attend and/or provide evidence of attendance at 16 hours of approved continuing education course work in the twenty-four (24) months preceding the date renewal of licensure is due.~~

~~(2) The following acts shall constitute incorrect practice of massage therapy for which disciplinary penalties may be imposed after opportunity to be heard in an informal or a formal hearing pursuant to the procedure in the Alabama Administrative Procedures Act, or after notice of deficiency and opportunity to cure the deficiency:~~

~~(a) failing to perform a statutory or legal or rule-based obligation based upon a licensee in the practice of massage therapy.~~

~~(b) failing to practice massage therapy with reasonable skill and safety to clients as a result of illness; use of alcohol, drugs, narcotics, chemicals, or other mind-altering substance; mental or physical condition.~~

~~(c) failing to practice massage therapy with that level of care, skill and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar circumstances and conditions.~~

~~(d) failing to maintain premises, supplies, and equipment of the massage therapy establishment in a clean and sanitary condition.~~

~~(e) failing to include the licensee's license or registration number in an advertisement, for the first infraction. A~~

~~second or subsequent infraction may be considered to be
misconduct as false, misleading or deceptive advertising.~~

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

~~**Statutory Authority:** Code of Ala. 1975, §34-43-15.~~

~~**History: New Rule:** Filed January 29, 2001; effective March 5,
2001. **Amended:** Filed April 20, 2009; effective May 25, 2009.~~

~~**Amended:** Filed February 10, 2012; effective March 16, 2012.~~

532-X-5-.04 Discipline And Injunctions (Repealed 5/25/09).

~~(Repealed)~~

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

~~**Statutory Authority:** Code of Ala. 1975, §34-43-15.~~

~~**History: New Rule:** Filed January 29, 2001; effective March 5,
2001. **Repealed:** Filed April 20, 2009; effective May 25, 2009.~~

ALABAMA MESSAGE THERAPY LICENSING BOARD
ADMINISTRATIVE CODE

CHAPTER 532-X-5
MESSAGE THERAPY SCHOOLS

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(1) The board is authorized to establish a list of approved
massage therapy schools.

(2) Successful completion of the curriculum at a board approved
massage therapy school shall satisfy the educational requirements
for licensure as a massage therapist.

(3) An approved massage therapy school shall require a student to
successfully complete a minimum of six hundred and Fifty (650)
hours of instruction, which shall consist of all of the
following:

(a) One hundred (100) hours of anatomy and physiology, including
thirty-five (35) hours of myology.

(b) Fifteen (15) hours of osteology.

(c) Ten (10) hours of circulatory system.

(d) Ten (10) hours of nervous system, with the remaining 30 hours
addressing other body systems at the discretion of the massage
therapy school.

(e) Two hundred fifty (250) hours of basic massage therapy, the
contradistinctions of massage therapy, and related touch therapy

modalities, including a minimum of fifty (50) hours of supervised massage.

(f) Fifty (50) hours of business, hydrotherapy, first aid, cardiopulmonary resuscitation, professional ethics, and state massage therapy laws.

(g) Two hundred fifty (250) hours of electives as determined by the massage therapy school.

(4) An approved massage therapy school may not teach the use of techniques or procedures that require specialized training, licensure or expertise, including, but not limited to, laser therapy, injection therapy, manipulation of the joints or any diagnosis or treatment of an illness that normally involves the practice of medicine, chiropractic, physical therapy, podiatry, nursing, occupational therapy, veterinary medicine, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathic.

(5) An approved massage therapy school shall adhere to the following requirements for supervised student clinical learning experiences, including but not limited to supervised massage:

(a) Supervised massage performed by a student shall be performed under the direct supervision of a registered massage therapy instructor employed by or contracted with an approved massage therapy school.

(b) Supervised massage performed by a student shall be performed on the school premises.

(c) The registered massage therapy instructor supervising the supervised massage shall have direct access to the student and the client.

(d) The client shall be informed that the massage therapy session is being performed by a student massage therapist prior to beginning the session.

(e) Students shall receive no compensation for any massage therapy session performed on the premises of the approved massage therapy school.

(f) Student may be awarded hours for performing business-related tasks such as answering telephones, returning telephone calls, booking therapy appointments, computer or file data entry, laundry of linens if the school provides linens for student clinical use and any other business-related tasks which will aid the students in future massage work environments, but the hours

awarded for those tasks may not be used to satisfy the minimum of 50 hours of supervised massage.

(g) Student clinicals may not include manual labor on the school premises unrelated to everyday clinical sessions.

(h) Students may not be required to clean the school premises beyond the normal sanitation procedures inclusive to treatment rooms and the immediate office space (i.e., appointment desk area, copy station, and client waiting room) used during clinical sessions.

(i) Students may not be required to perform building maintenance, lawn care, facility housekeeping, including bathrooms, floors, or anything that does not apply to the education and career goal of a student.

(6) An approved massage therapy school shall ensure that massage therapy courses are taught only by licensed massage therapists who are registered massage therapy instructors, and that all courses are taught by instructors who are academically and experientially qualified to teach the courses assigned to them.

(7) An approved massage therapy school at which supervised massage is conducted on the premises shall meet all of the qualifications for a massage therapy establishment license.

(8) An approved massage therapy school shall carry professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars (\$1,000,000) .

(9) No later than October 1, 2025, an approved massage therapy school shall acquire and maintain registration as an assigned school through the National Certification of Therapeutic Massage and Bodywork Board (NCBTMB) .

(10) Within 2 years of board approval, all newly approved massage therapy schools must obtain and maintain registration as an assigned school through the National Certification of Therapeutic Massage and Bodywork Board (NCBTMB) .

(11) A massage therapy school located outside of the state of Alabama may be an approved massage therapy school, provided that, in addition to meeting all other requirements in this chapter, the out-of-state massage therapy school shall:

(a) Be recognized by a regional professional accrediting body.

(b) Be an accredited postgraduate training institute.

(c) Provide a copy of the conforming curriculum.

(12) Institutional and school policies, procedures, and other publications, whether written or electronic, shall:

(a) Be printed, written, and/or spoken statements and representations regarding massage therapy schools and schools shall be clear, factually accurate, and current. Supporting information shall be kept on file by the sponsoring school or school administrator and shall be readily available for review, including, but not limited to the following:

1. Policies concerning admission, financial aid, curriculum, schedules, and all other areas affecting the education and wellbeing of students shall be honestly and clearly stated in publications promoting the school.

2. Procedures, dates, and requirements for application, admission, financial aid, and other responsibilities and opportunities directly affecting students shall be clearly stated and shall be generally available to prospective and current students.

3. Policies regarding student admission and standing, evaluation of student progress, and the operation of schools shall be readily available to current and prospective students.

4. A description of tuition, fees, and other charges, as well as all policies pertaining thereto, shall be clearly described in the school's published literature. The total cost of the school shall be clearly stated.

(13) Catalogs, advertising, and promotions shall clearly distinguish existing and recognized schools from those that are prospective or hypothetical.

(14) All advertising and promotional materials shall include the correct name and location of the school and any parent institution.

(15) All advertising promoting student clinical sessions shall clearly indicate that services provided by students are offered under the supervision of a licensed massage therapist by using the phrase, "under the supervision of" or "supervised by a licensed massage therapist." Students may not use personal advertisements for such services, but student names may be included in an instructor's advertisement, provided that the students' intern status is clearly disclosed in the ad.

(16) Advertisements or any other type of recruitment materials shall not claim that students receive compensation for attending school or for providing student services.

(17) All school and school advertising and promotional materials shall clearly disclose that they offer solely training, and not employment, in massage therapy. No overt or implied claim or guarantee of individual employment shall be made at any time therein.

(18) No school shall use the term "accredited" unless it indicates the agency or organization by which it is accredited.

(19) No school shall issue any certificate or diploma or confer any degree that misrepresents the course of study or instruction covered or completed or the accomplishments or standing of the student receiving such certificate, diploma, or degree.

(20) The school shall not falsely represent its facilities in photos, illustrations, computerized images, or by other means.

(21) Schools that utilize placement statistics and/or state examination pass rates in advertising, promotional literature, and/or verbal presentations shall use corroborative data from reliable and current sources, e.g., state agencies, previous calendar year statistics, etc. to support its claims.

(22) Massage therapy schools shall complete the Massage Therapy Education Annual Report in a format specified by the board within the time specified.

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. **Repealed and New Rule:** Filed April 20, 2009; effective May 25, 2009. **Repealed and New Rule:** Filed February 10, 2012; effective March 16, 2012. **Repealed and New Rule:** Published _____; effective _____.

532-X-5-.02

Approved School Annual Renewal.

(1) A massage therapy school approved by the board must register annually with the board, submitting a renewal form and/or application, the renewal fee, a current curriculum, and a list of all instructors of massage therapy who teach or supervise at the school.

(a) Should a change in ownership, curriculum, instructors, staff, or address of the school occur during the year subsequent to

obtaining approval from the board, the school must notify the board of such change within thirty (30) days of the earlier of the date of the school's authorization of the proposed change or of implementation of the change.

1. The board must consider continued approval of a massage therapy school after a change of ownership, curriculum, or staff.

2. In the event that a massage therapy school submits an annual renewal application with current curriculum which does not meet the minimum standards set forth in the applicable laws and regulations, the board shall send a deficiency notice to the school and suspend the approval of the school.

3. The school shall have six (6) months in which to correct the deficiency and submit a renewal form with fee and copy of the conforming curriculum. Approval of a massage therapy school may be withdrawn by the board if the massage therapy school modifies its curriculum without notice to the board, falls below the minimum standards required by the statutes and these rules and regulations, violates any standard applicable to the accreditation of the school, or violates any applicable rule or regulation of the board.

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:** Filed April 20, 2009; effective May 25, 2009.

Repealed and New Rule: Filed February 10, 2012; effective March 16, 2012. **Repealed and New Rule:** Published _____; effective _____.

532-X-5-.03

Requirements for Massage Therapy Instructors Teaching and Conducting Clinica.

(1) Except as provided in Section 34-43A-4(a)(4), every massage therapy instructor teaching a course in massage therapy at a massage therapy school located in this state shall be licensed by the board as a massage therapist and registered as a massage therapy instructor. Instructors who are not teaching massage therapy are not required to register.

(a) An adjunct massage therapy instructor shall be dually licensed in the state where he or she resides or be nationally certified, or both.

(b) A massage therapy instructor shall satisfy all of the following:

1. Be currently licensed as an Alabama massage therapist and maintain a current unencumbered license.

2. Possess training and experience in the field of study and have at least three (3) years of experience in the field of massage and be supported by management in their professional development and teaching skills.

(c) Academic studies such as anatomy and physiology, business, and related sciences may be taught by a non-massage therapist professional who has experience in the field.

(d) To engage in animal massage by a massage therapist under the direction or prescription of a licensed veterinarian, the applicant must graduate from a nationally approved school and complete a minimum of one hundred (100) hours of postgraduate training and education in animal anatomy, pathology, and physiology for the type of animal on which the therapist will perform therapeutic massage.

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 April 20, 2009; effective May 25, 2009.

Amended: Filed February 10, 2012; effective March 16, 2012.

Repealed and New Rule: Published ; effective .

532-X-5-.04 Massage Therapy School Deficiencies.

(1) The board shall conduct surveys and evaluations as often as necessary to determine compliance with all standards set forth in this Chapter.

(2) In the event that a massage therapy school submits an annual renewal application with a current curriculum that does not meet the minimum standards set forth in the applicable laws and regulations, the board shall:

(a) Send a deficiency notice to the school requiring a plan of correction to be submitted to the board within ninety (90) days to address the issues and outline the plans of the school to come into compliance.

(b) The school shall have six (6) months in which to correct the deficiency.

(c) Failure to come into compliance may result in withdrawal of school approval.

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. **Repealed:** Filed April 20, 2009; effective May 25, 2009.
New Rule: Published _____; effective _____.

532-X-5-.05 **Withdrawal of School Approval.**

(1) Approval of a massage therapy school may be withdrawn by the board if the massage therapy school does any of the following:

(a) Modifies its curriculum without notice to the board.

(b) Falls below the minimum standards required by the statutes and these rules and regulations.

(c) Violates any standard applicable to the accreditation of the school by registering and/or certifying body.

(d) Violates any applicable statute or regulation.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: New Rule: Published _____; effective _____.

532-X-5-.06 **Application for New Massage Therapy School Approval.**

(1) To be approved by the board, a massage therapy school located in the state of Alabama must apply directly to the board for approval and meet all of the following requirements for approval:

(a) Submit a completed application, including applicable fees, and submit the following information:

1. Sample transcript and diploma.

2. Provide documentation of a curriculum plan, catalog, or other course description that includes a minimum number of required hours of instruction in the subjects required by the board as delineated in this chapter.

3. Proof of coverage of the required carry professional and general liability insurance with an "A" rated or better insurance carrier for at least one million dollars (\$1,000,000). 4. A list of instructors and credentials.

Author: Alabama Massage Therapy Licensing Board

Statutory Authority: §34-43A-6

History: New Rule: Published _____ ; effective _____ .