

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 532
Department or Agency: Alabama Board of Massage Therapy
Rule No.: Chapter 532-X-8
Rule Title: Severability and Compliance
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-8 Severability and Compliance

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-8 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-8
SEVERABILITY AND COMPLIANCE~~

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~~532-X-8-.01 Severability
532-X-8-.02 Compliance~~

~~532-X-8-.01 Severability.~~

~~If any of the Rules and Regulations of the Board or any part thereof, of any sentence, paragraph, clause, phrase, or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each Rule and/or portions thereof, are severable.~~

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

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

~~**History: New Rule:** Filed January 29, 2001; effective March 5, 2001.~~

~~532-X-8-.02 Compliance.~~

~~All rules adopted by the Board are intended, and shall be construed, to be substantively and procedurally in compliance with the provisions of the Alabama Administrative Procedures Act.~~

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

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

~~**History: New Rule:** Filed January 29, 2001; effective March 5, 2001.~~

ALABAMA MESSAGE THERAPY LICENSING BOARD
ADMINISTRATIVE CODE

CHAPTER 532-X-8
CRIMINAL HISTORY FINGERPRINT BACKGROUND CHECK

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	<u>Background Checks</u>

532-X-8-.01 Temporary Process Pending FBI Approval.

(1) The board is authorized to require that an applicant or licensee submit to a criminal history background check in the following circumstances:

(a) Initial licensure, renewal, or reinstatement of a massage therapist license.

(b) Initial application and renewal of a massage therapy establishment license. The requirement applies to all individuals considered applicants for establishment licenses.

(c) Upon complaint.

(2) Pending receipt by the board of an Originating Agency Identifier Number (ORI), the board will conduct an Alabama Law Enforcement Agency state criminal history fingerprint background check. The board will augment this process using a search of a commercially available database.

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:** Published ; effective

532-X-8-.02

Process for Criminal History Fingerprint
Background Check.

(1) Applicant(s) for license(s) shall submit to the board the following for a criminal history background check to be completed:

(a) A signed and notarized Application to Review Criminal History Record Information-SBI Form 46 from the Alabama Law Enforcement Agency (ALEA) authorizing ALEA to release any and all criminal history information to the board. Results of the criminal background check will be returned to the board by ALEA.

(b) Two (2) completed FBI-approved FD-258 fingerprint cards, or an FBI-approved AFIS printout of an official applicant fingerprint card, which will be submitted, along with the release form, to ALEA to perform a state background check taken by an authorized law enforcement agency that has an FBI-issued ORI consistent with appendix B of SBI Form 46.

(c) A copy of a valid photo identification; valid photo identification must be one of the following: 1. A valid, unexpired state-issued photo driver license or photo ID (non-driver) card. 2. A valid, unexpired United States Citizenship and Immigration Service document which may include either:

1. Certificate of Naturalization N-550
2. Replacement Certificate of Naturalization N-570
3. Special Certificate of Naturalization N-578
4. Certificate of Citizenship N-560
5. Replacement Certificate of Citizenship N-561

(d) A valid, unexpired United States Passport; or

(e) a valid, unexpired Foreign Passport which meets the following requirements:

1. A foreign passport must contain a valid United States Visa or I-94 to be used as primary proof of identification; or
2. A foreign passport, not issued in English, must be translated and accompanied by a Certificate of Accurate Translation.

Passports are not acceptable if un-translated to English and/or expired.

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:** Published ; effective

532-X-8-.03 Processing of Criminal History Background Checks.

(1) Information received by the board pursuant to a criminal background check shall be confidential and shall not be a public record, except such information received by and relied upon by the board in making fitness determinations.

(2) The applicant or licensee may be fingerprinted at ALEA between 8:30 a.m. and 4:30 p.m., Monday through Friday, after the applicant has provided ALEA with the completed Application to Review Criminal History Record Information-SBI Form 46 authorizing ALEA to release any and all criminal history information to the board and a copy of acceptable photo identification as described above.

(3) The board may deny the application of any applicant or discipline the license of any licensee who refuses to complete a criminal history background check.

(4) The fees for background checks are the responsibility of the applicant.

(5) If an applicant has a disability that prevents the applicant from being fingerprinted then ALEA will perform a name-based search, upon submission of all completed documents and evidence of the disability that prevents the applicant from being fingerprinted.

Author: Alabama Massage Therapy Licensing Board

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

History: New Rule: Published ; effective .