

**LICENSING AND REGULATION OF MASSAGE THERAPISTS:
NOTICE OF PROPOSED REGULATIONS CHANGES
BOARD OF MASSAGE THERAPISTS**

<p>BRIEF DESCRIPTION: The Board of Massage Therapists proposes to adopt new regulations relating to the licensing and practice of massage therapists, to implement new state statute in AS 08.61 by Chapter 114, SLA 2014 (HB 328).</p>
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The Board of Massage Therapists (Board) proposes to adopt new regulations in Title 12 of the Alaska Administrative Code, dealing with all aspects of the licensing and practice of massage therapists under the authority of the Board. The proposed regulations address a wide range of subjects, including initial license application, transitional license, criminal justice information, license renewal, continuing education requirements, audit and documentation, code of ethics and standards of practice, definition of terms, and other provisions as necessary to implement Chapter 114, SLA 2014 (HB 328).

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806 Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at jun.maiquis@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system at <http://notice.alaska.gov/177300>, and using the "comment" link. **The comments must be received no later than 4:30 p.m. on July 17, 2015.**

Oral comments relevant to the proposed actions, including the potential costs to private persons of complying with the proposed action, may also be given at a hearing to be held during the July 22, 2015 meeting at the Atwood Building, 550 W. 7th Avenue, 1st Floor, Conference Room 104, Anchorage, Alaska. **Written comments will not be accepted at the hearing.** The hearing will begin at 1:00 p.m. and will end when those who have signed up before 1:00 p.m. to give oral testimony have had the opportunity to give oral comments. The chair of the Board may limit each participant's length of oral testimony to a time limit, determined by the chair before the hearing begins, to allow enough time for all those present and timely registered to give testimony. If you wish to give your comments via telephone, please call 1-800-315-6338 access code 52538.

You may submit written questions relevant to the proposed action to Karen Hudson, Licensing Supervisor, Division of Corporations, Business and Professional Licensing, P.O. Box 110806 Juneau, AK 99811-0806 or by e-mail at karen.hudson@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and response available on the Board's website at <http://commerce.state.ak.us/dnn/cbpl/ProfessionalLicensing/BoardofMassageTherapists.aspx> or on the Alaska Online Public Notice System. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jun Maiquis at (907) 465-2537 no later than July 10, 2015, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Jun Maiquis at the address or phone number above, or go to <http://commerce.state.ak.us/dnn/portals/5/pub/MAS-0615.pdf>

A copy of material proposed for adoption by reference is available on the Board's website at <http://commerce.state.ak.us/dnn/cbpl/ProfessionalLicensing/BoardofMassageTherapists.aspx>

After the public comment period ends, the Board will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.01.010; AS 08.01.065; AS 08.01.100; AS 08.61

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.01.010; AS 08.01.065; AS 08.01.100; AS 08.61

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 6/16/15

/s/
Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, please send your request to the Division of Corporations, Business and Professional Licensing at the address above and include your name, address, and the occupational area in which you are interested.

**LICENSING AND REGULATION OF MESSAGE THERAPISTS:
ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))**

1. **Adopting agency:** Board of Massage Therapists – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Relating to the licensing and regulation of the Board of Massage Therapists.
3. **Citation of regulation:** 12 AAC 79.100 – 12 AAC 79.990.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Compliance with new state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated costs in the aggregate to comply with the proposed action to:**
 - a. **Private Persons:** \$1,020 (application, initial biennial license, biennial license renewal, and fingerprint processing fees).
 - b. **Other State Agencies:** None known.
 - c. **Municipalities:** None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs are expected in FY 2015 or in subsequent years.
9. **The name of the contact person for the regulations:**
Karen Hudson, Licensing Supervisor
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Telephone: (907) 465-2691
E-mail: karen.hudson@alaska.gov
10. **The origin of the proposed action:** Board of Massage Therapists.

11. **Date:** 6/16/15

Prepared by: /s/
Jun Maiquis, Regulations Specialist

12 AAC is amended by adding a new chapter to read:

Chapter 79. Massage Therapists.

Article

1. Licensing (12 AAC 79.100 – 12 AAC 79.130)
2. License Renewal and Continuing Education (12 AAC 79.200 – 12 AAC 79.220)
3. General Provisions (12 AAC 79.900 – 12 AAC 79.990)

Article 1. Licensing.

Section

100. Application for licensure by examination
110. Application for licensure by credentials
120. Application for transitional license
130. Criminal justice information

12 AAC 79.100. Application for licensure by examination. (a) The board will issue a license by examination to practice massage therapy to an applicant who meets the requirements of AS 08.61.030 and this section.

(b) An applicant for licensure by examination under this section shall submit

(1) a completed application, on a form provided by the department; the completed application must include

(A) the personal identification information requested on the form;

(B) information on the applicant's physical and mental health related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(C) information on any criminal convictions related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(D) the applicant's fingerprint information described in 12 AAC 79.130;

(E) the application fee, fingerprint processing fee, and the license fee specified in 12 AAC 02.396;

(2) a certified transcript sent directly to the department from one of the following board-approved massage school accrediting agencies

(A) American Massage Therapy Association;

(B) Associated Bodywork and Massage Professionals;

(C) National Certification Board for Therapeutic Massage and Bodywork;

or

(D) Commission on Massage Therapy Accreditation;

(3) verification of having passed the Board Certification Examination for Therapeutic Massage and Bodywork administered and governed by the Federation of State Massage Therapy Boards; prior to February 1, 2015, the Board will accept verification from National Certification Board for Therapeutic Massage and Bodywork or Federation of State Massage Therapy Boards; on or after February 1, 2015, the Board will accept verification from the Federation of State Massage Therapy Boards only;

(4) verification of satisfactory completion of at least 500 hours of in-class supervised instruction and clinical work from an approved massage school, or verification of satisfactory completion of a board-approved apprenticeship program;

(5) a current certification in cardiopulmonary resuscitation through the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent

organization; and

(6) verification of having completed at least four hours of safety education in bloodborne pathogens and universal precautions within two years preceding the application.

(Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.030 AS 08.61.090

12 AAC 79.110. Application for licensure by credentials. (a) The board will issue a license by credentials to practice massage therapy to an applicant who meets the requirements of AS 08.61.040 and this section.

(b) An applicant for licensure by credentials under this section shall submit

(1) a completed application, on a form provided by the department; the completed application must include

(A) the personal identification information requested on the form;

(B) information on the applicant's physical and mental health related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(C) information on any criminal convictions related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(D) the applicant's fingerprint information described in 12 AAC 79.130;

(E) the application fee, fingerprint processing fee, and the license fee specified in 12 AAC 02.396;

(2) verification that the applicant

(A) holds a current license to practice massage therapy in another jurisdiction or country where licensing requirements are substantially equal to or greater

than the requirements of this state; or

(B) certified by the American Massage Therapy Association or the National Certification Board for Therapeutic Massage and Bodywork or other board-approved credentialing entity; and

(3) current certification in cardiopulmonary resuscitation through the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent organization. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.040 AS 08.61.090
AS 08.61.030

12 AAC 79.120. Application for transitional license. (a) The board will issue a license under this section to an applicant who applies for licensure before July 1, 2017, and who meets the requirements of AS 08.61.030(1), (2), (4) – (6), and (9) and this section.

(b) An applicant for licensure under this section shall submit

(1) a completed application, on a form provided by the department; the completed application must include

(A) the personal identification information requested on the form;

(B) information on the applicant’s physical and mental health related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(C) information on any criminal convictions related to the grounds for imposition of disciplinary sanctions in AS 08.61.060;

(D) the applicant’s fingerprint information described in 12 AAC 79.130;

(E) the application fee, fingerprint processing fee, and the license fee

specified in 12 AAC 02.396;

(2) a current certification in cardiopulmonary resuscitation through the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent organization; and

(3) verification that the applicant owned, operated, or worked for a massage therapy business and performed the practice of massage therapy before July 1, 2015, by submitting

(A) a copy of the applicant's signed federal tax income tax returns for one of the five years immediately preceding July 1, 2015, listing the person's occupation as massage therapist in this state;

(B) copies of the applicant's signed schedule C federal income tax returns for one of the five years immediately preceding July 1, 2015, demonstrating that the person has reported income from the practice of massage therapy in this state;

(C) a sworn statement from the applicant's employer in this state attesting that the applicant has practiced massage therapy within the five years immediately preceding July 1, 2015, a copy of the business license of the applicant's employer, and a copy of the applicant's Form W-2 or Form 1099-MISC from the same employer;

(D) a copy of the municipal occupational license that was current on the day before July 1, 2015, from a municipality in this state, stating the applicant's occupation as a massage therapist;

(E) documentation that the person has, for at least one year immediately preceding July 1, 2015, been an active member, as a massage therapist, in a national professional massage therapy association that was established before January 1, 2000,

offers professional liability insurance as a benefit of membership, and has an established code of professional ethics; or

(F) other documentation satisfactory to the board. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.030 AS 08.61.090

12 AAC 79.130. Criminal justice information. (a) An applicant for licensure under 12 AAC 79.100, 12 AAC 79.110, or 12 AAC 79.120 shall submit with the application the applicant's fingerprints and other information required by the Department of Public Safety to obtain state and national criminal justice information under AS 12.62 and AS 12.64.

(b) The board shall submit the fingerprints received under this section to the Department of Public Safety and request the Department of Public Safety to

(1) submit the fingerprints to the Federal Bureau of Investigation for a report on national criminal justice information;

(2) perform a check for state criminal justice information; and

(3) report to the board the results of the criminal justice information checks under (1) and (2) of this subsection.

(c) The request under (b) of this section for a criminal justice information report shall not delay consideration of the applicant's license application. If criminal justice information that raises questions about an applicant's qualifications for licensure is received after a license has been issued to the applicant, the department and the board will take action under AS 08.61 and AS 44.62 as appropriate. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.030 AS 08.61.040

Article 2. License Renewal and Continuing Education.

Section

200. License renewal

210. Continuing education requirements

220. Audit and documentation

12 AAC 79.200. License renewal. (a) A massage therapy license must be renewed biennially on or before September 30 of odd-numbered years. A renewal reminder document will be mailed to each currently licensed massage therapist at least 30 days before the renewal date. Failure to receive a renewal notice does not relieve a licensee from the responsibility of renewing a license on time.

(b) An applicant for renewal of a massage therapy license must meet the requirements of AS 08.61.050 and this section. A massage therapist applying for license renewal shall submit

- (1) a completed renewal application on a form provided by the department;
- (2) the applicant's fingerprint information described in 12 AAC 79.130;
- (3) the fingerprint processing fee and the license renewal fee specified in

12 AAC 02.396;

(4) a current certification in cardiopulmonary resuscitation through the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent organization; and

- (5) the continuing education requirements in 12 AAC 79.210. (Eff.

___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.050

12 AAC 79.210. Continuing education requirements. (a) An applicant for renewal of a massage therapy license,

(1) for a biennial licensing period that begins on or after July 1, 2015, must document at least 12 continuing education credits; up to twelve continuing education credits required under this subsection may be obtained through online education;

(2) for a biennial licensing period that begins on or after July 1, 2017, must document at least 24 continuing education credits.

(b) An applicant for renewal under (a)(2) of this section may receive two hours of continuing education credit for completion of hands-on cardiopulmonary resuscitation through the American Red Cross, American Heart Association, American Safety and Health Institute, or an equivalent organization.

(c) An applicant for renewal under (a)(2) of this section may receive four hours of continuing education credit for completion of a blood borne pathogens course once every six years.

(d) All continuing education must be completed by a board-approved provider.

(e) For the purposes of this section,

(1) one "contact hour" equals a minimum of 50 minutes of classroom instruction between instructor and participant;

(2) one academic semester credit equals 15 contact hours; and

(3) one academic quarter credit equals 10 contact hours.

(f) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education hours claimed and shall make the records available to the board upon request under 12 AAC 79.220. Records must be retained for four years from the date the contact

hours were obtained. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.030 AS 08.61.050

12 AAC 79.220. Audit and documentation. A licensee must comply with all applicable requirements of 12 AAC 02.960 and 12 AAC 02.965. If selected for an audit of continued competency activities, the licensee must cooperate with the department and must submit all requested verifications of continued competency activities claimed by the licensee. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.050

Article 3. General Provisions.

Section

900. Code of ethics and standards of practice

910. "Moral turpitude" defined

990. Definitions

12 AAC 79.900. Code of ethics and standards of practice. *The Alaska Board of Massage Therapists Code of Ethics and Standards of Practice, dated June 2015,* is adopted by reference as the code of ethics for massage therapists in the state. In order to maintain a high standard of integrity in the profession and to safeguard the health and welfare of the public, massage therapists licensed in this state must adhere to the code of ethics. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020

Editor's note: A copy of the *Alaska Board of Massage Therapists Code of Ethics and Standards of Practice*, adopted by reference in 12 AAC 79.900, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Board of Massage Therapists, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; phone (907) 465-3811; website at <http://commerce.state.ak.us/dnn/cbpl/ProfessionalLicensing/BoardofMassageTherapists.aspx>.

12 AAC 79.910. "Moral turpitude" defined. In AS 08.61.030, a crime involving moral turpitude includes

- (1) homicide;
- (2) manslaughter;
- (3) assault;
- (4) stalking;
- (5) kidnapping;
- (6) sexual assault;
- (7) sexual abuse of a minor;
- (8) unlawful exploitation of a minor, including possession or distribution of child pornography;
- (9) indecent exposure;
- (10) unlawful distribution or possession for distribution of a controlled substance;
- (11) prostitution;
- (12) sex trafficking. (Eff. ___/___/_____, Register _____)

Authority: AS 08.61.020 AS 08.61.030

12 AAC 79.990 Definitions. In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Massage Therapists;

(2) "criminal history record information" has the meaning given in

AS 12.62.900;

(3) "department" means the Department of Commerce, Community, and
Economic Development;

(4) "licensee" means a massage therapist licensed under AS 08.61. (Eff.

___/___/_____, Register _____)

Authority: AS 08.61.020