

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control \_\_\_\_\_ Department or Agency Alabama Board of Massage Therapy  
Rule No. 532-X-3-.04  
Rule Title: Establishment Licensure  
         New     X     Amend          Repeal          Adopt by Reference

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 and, if so, to what degree?         No        

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?         No        

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?         No        

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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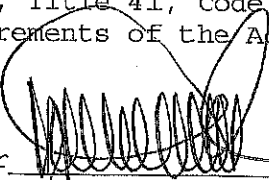
Does the proposed rule have an economic impact?         No        

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.

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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 

Date: July 19, 2019

Alabama Board of Massage Therapy

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Massage Therapy

RULE NO. & TITLE: 532-X-3-.04 Establishment Licensure

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to add a criminal history check to the application process.

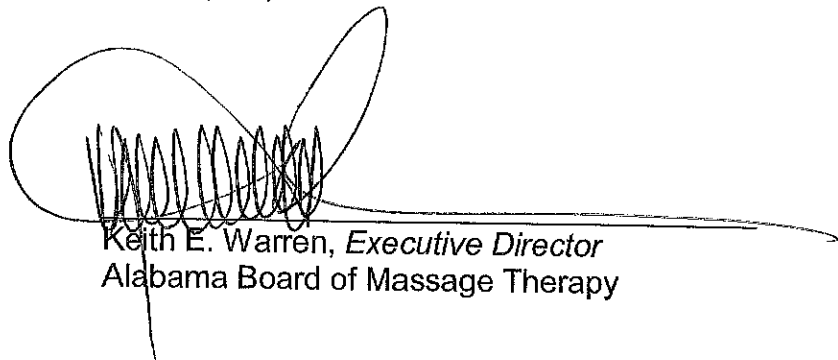
TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Tuesday, August 27, 2019. Comments should be directed to Keith E. Warren, *Executive Director*, 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at [keith@alstateboard.com](mailto:keith@alstateboard.com) or via telephone at 334-420-7235.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday September 4, 2019

CONTACT PERSON AT AGENCY:

Keith E. Warren  
*Executive Director*  
2777 Zelda Road  
Montgomery, AL 36106  
(334) 420-7233



Keith E. Warren, *Executive Director*  
Alabama Board of Massage Therapy

532-X-3-.04      Establishment Licensure.

(1)            Each massage therapy establishment and on-site or out-call establishment as defined in these rules and regulations shall obtain a license to operate from the Board.

(2)            The applicant for licensure of the establishment shall be the owner, lessee, or legal possessor of the establishment.

(3)            In the event the licensed establishment sold, subleased, or legal possession of the establishment is changed, the new owner, lessee, or legal possessor of the establishment shall be required to apply for and obtain a new license within sixty (60) days of the change of ownership, lessee, or legal possess. The establishment license is not assignable or transferable.

(4)            An establishment or business whose primary function is not the provision of massage therapy services may be exempt from the requirement of obtaining licensure as a massage therapy establishment by filing with the Board a sworn and notarized statement by the owner, lessee, or legal possessor declaring the primary function of the establishment; and by filing with the Board official government related or business records, city business license, Internal Revenue Service tax returns and records or correspondence regarding advertisement, appointment books kept in the normal course of business, or statements of business associates consulted in relation to the practice of the primary function of the establishment to be other than massage therapy, and as to which massage therapy is an incidental practice. The Board may request such other and further documentation of the interaction of massage therapy practice and the primary function of the establishment as seems reasonable in making its determination as to the granting of exemption from establishment licensure.

(5)            Each massage therapy establishment shall be subject to an inspection by the Board at any time during normal business hours and must demonstrate:

(a)            current liability insurance coverage for bodily injury and property damage for the establishment;

(b) compliance with state and local fire and safety requirements;

(c) a fire extinguisher in good working condition;

(d) provision for extermination of vermin, insects, termites, and rodents;

(e) laundering or sanitation of all equipment and linens or other materials furnished for use of the customer or client, prior to reuse, if applicable;

(f) maintenance of equipment in a safe and sanitary condition;

(g) 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;

(h) 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;

(i) clean drape material for draping clients during the massage, use of which shall be explained to the client prior to the massage, and which shall cover the buttocks and genitals of a male client at all times during the massage, and which shall cover the buttocks, breasts, and genitals of a female client at all times during the massage.

(6) Upon receipt of an application for a massage therapy establishment license, the Board may cause an initial inspection to be made of the site to confirm that the establishment meets the above requirements and is to be utilized for massage therapy and not for the purposes unlawful under the massage therapy statutes.

(7) Inspections may be initiated by the Board at any time during reasonable business hours after licensure of the establishment, which may include but are not limited

to determining whether the establishment is in compliance with the rules governing the establishment's operation, facilities, personnel, safety, sanitary requirements, and review of existing insurance coverage. Failure to cooperate with such inspection may lead to disciplinary action.

(8) No massage therapy establishment owner, lessee, or legal possessor shall knowingly engage in or permit any person or persons to engage in sexual activity in that owner's massage establishment or to use that establishment to make arrangements to engage in sexual activity in any other place.

(9) Each massage therapy establishment applicant shall pass a criminal history check unless the applicant is a licensed massage therapist and has passed a criminal history check.

Author: Keith E. Warren

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

**History:** **New Rule:** Filed January 29, 2001; effective March 5, 2001. **Amended:** Filed November 9, 2006; effective December 14, 2006. **Amended:** Filed February 20, 2009; effective May 25, 2009. **Amended:** Filed February 10, 2012; Effective March 16, 2012. **Amended:** Filed July 22, 2019;