

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Proposed Rulemaking

Rules for Massage Therapy in Arkansas

Promulgated by:
Department of Health

Title 17. Professions, Occupations, and Businesses

Chapter XI. Department of Health, State Board of Health, Generally

Subchapter A. Generally

Part 52. Rules for Massage Therapy in Arkansas

Subpart 1. Generally

17 CAR § 52-101. Purpose.

This part is prepared for the purpose of:

- (1) Establishing standards to regulate the vocation of massage therapy;
- (2) Providing for the licensing of persons to carry on and to teach such vocation;
- (3) Regulating the conduct and sanitation of massage therapy clinics establishments, massage therapy schools, and massage therapy postsecondary schools so as to prevent the spreading of communicable diseases; and
- (4) Providing penalties for violation thereof.

17 CAR § 52-102. Principles, methods, and definitions.

(a) Terms found in Arkansas Code § 17-86-102 are descriptive rather than limiting, and massage therapy includes those techniques that are utilized in all phases of massage and bodywork for the purposes of:

- (1) Relaxation;
- (2) Stress reduction;

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- (3) Pain relief;
- (4) Injury prevention;
- (5) Injury repair;
- (6) Postural improvement; and/or
- (7) Health enhancement.

(b) As used in this part:

(1) "Apprenticeship" means a program that meets the federal guidelines set out in 29 C.F.R. pt. 29 as existing on March 1, 2021, and approved by the Office of Apprenticeship as meeting the requirements of an apprenticeship;

(2) "Assist" means acting as an aide to a:

- (A) Master massage therapist; or
- (B) Massage therapy instructor;

(3) "Automatic licensure" means granting the occupational licensure without an individual having met occupational licensure requirements provided:

- (A) Under Arkansas Code; or
- (B) By other provisions in this part;

(4) "Board" means the State Board of Health;

(5) "Continuing education" means education that is acquired after an individual

has:

- (A) Graduated; and
- (B) Become licensed as a massage therapist;

(6) "Cupping therapy for massage" means a modality used to release rigid soft tissues through the application of a nonheated device that creates suction to lift the tissue away from the body;

(7) "Department" means the Department of Health;

(8) "Direct supervision" means being in the physical presence of a licensed:

- (A) Master massage therapist; or
- (B) Massage therapy instructor;

(9) "Entity" means a corporation, association, limited liability company, general partnership, limited partnership, sole proprietorship, or other organization recognized under the laws of the State of Arkansas or any other state;

(910) "Guest instructor" means a qualified speaker or presenter;

(1011) "Licensee" means an individual licensed under:

(A) The Massage Therapy Act, Arkansas Code § 17-86-101 et seq.; and

(B) This part;

(112)(A) "Massage therapist" means a person who has:

(i) Earned a diploma from a State Board of Health-accepted school of massage therapy;

(ii) Passed an examination required or accepted by the State Board of Health; and

(iii) Become licensed and registered to practice massage therapy.

(B) "Massage therapist" includes a person who has previously obtained the massage therapist license under prior state law.

(C) A massage therapist may:

(i) Instruct continuing education programs approved by the Department of Health; and

(ii) Assist in the instruction of the procedures listed in the definition of massage therapy under the direct supervision of a:

(a) Massage therapy instructor; or

(b) Master massage therapist;

(1213)(A) "Massage therapy" means the treatment of soft tissues that may include skin, fascia, and muscles and their dysfunctions for therapeutic purposes of establishing and maintaining:

(i) Good physical condition;

(ii) Comfort; and

(iii) Relief of pain.

(B) "Massage therapy" is a healthcare service that includes:

(i) Gliding;

- (ii) Kneading;
- (iii) Percussion;
- (iv) Compression;
- (v) Vibration;
- (vi) Friction;
- (vii) Nerve strokes; and
- (viii) Stretching the tissue.

(C) "Massage therapy" also means to engage in the practice of any of the following procedures:

- (i) Massage therapy techniques and procedures either:
 - (a) Hands-on; or
 - (b) With mechanical devices;
- (ii) Therapeutic application and use of:
 - (a) Oils;
 - (b) Herbal or chemical preparations;
 - (c) Lubricants;
 - (d) Nonprescription creams, lotions, scrubs, and powders; and
 - (e) Other spa services;
- (iii) Therapeutic application of hot or cold packs;
- (iv) Hydrotherapy techniques, which:
 - (a) Means the use of water in any form for therapeutic purposes;

and

- (b) Includes methods of:
 - (1) Full and partial immersion baths;
 - (2) Whirlpools;
 - (3) Sponging;
 - (4) Sprays;
 - (5) Body shampoos;
 - (6) Body scrubs;
 - (7) Body wraps;

- (8) Fomentations;
- (9) Compresses;
- (10) Poultices;
- (11) Packs;
- (12) Masks;
- (13) Steam treatments; and
- (14) Sauna treatments;

(v) Heliotherapy that may:

(a) Include mechanical devices, heat lamps, and other devices with the use of light for therapeutic purposes; and

(b) Consist of the use of infrared radiation lamps and devices and the various uses of other light that might be approved by the Department of Health;

(vi) Electrotherapy:

(a) Means the use of electrical devices for therapeutic purposes;

and

(b) May consist of the use of:

- (1) Mechanical vibrators;
- (2) Electric stimulation;
- (3) Direct and alternating currents;
- (4) Interferential currents;
- (5) Microcurrents; and
- (6) Russian stimulation; and

(vii) Any hands-on bodywork techniques and procedures:

(a) Rising to the level of the techniques and procedures intended to be regulated under the Massage Therapy Act, Arkansas Code § 17-86-101 et seq.; and

(b) Not covered under specific licensing laws of other boards.

(D) The following are not included in the scope of massage therapy practice:

(i) Colonic irrigation and other methods of internal hydrotherapy;

(ii) Depilation, waxing, extractions, and electrolysis;

(iii) Practices involving the use of ultrasound unless:

(a) The therapist can present educational qualifications

acceptable to the ~~Department of Health~~department; and

(b) A licensed physician prescribes the treatment; or

(iv) Piercing, lancing, or penetrating the skin;

~~(1314)~~ "Massage Therapy Act" means the Massage Therapy Act, Arkansas Code § 17-86-101 et seq.;

~~(1415)~~ "Massage therapy apprentice" means a person who is enrolled in a massage therapy apprenticeship program;

~~(1516)~~ "Massage therapy apprenticeship program" means a program that:

(A) Meets federal guidelines set out in 29 C.F.R. pt. 29, as existing on March 1, 2021; and

(B) Is approved by the Office of Apprenticeship;

~~(17)~~ "Massage therapy establishment" means a location other than a massage therapy school in which massage therapy is performed, including without limitation:

~~(A) A massage therapy clinic;~~

~~(B) A massage therapy spa; or~~

~~(C) An entity that contracts with or employs a massage therapist to provide massage therapy services at an alternate location, including without limitation:~~

~~(i) Private residence;~~

~~(ii) Hotel; or~~

~~(iii) Other permanent or temporary dwelling;~~

~~(18)~~ "Massage therapy establishment registration" means the mandatory registration with the department that permits the operation of a massage therapy establishment;

~~(16)~~ "Massage therapy clinic" means a clinic, place, premises, building, or part of a building in which a branch or any combination of branches of massage therapy or the occupation of a massage therapist is practiced;

~~(1719)~~(A) "Massage therapy instructor" means a person who:

(i) Before July 1, 2010, has completed no fewer than two hundred fifty (250) hours of:

(a) Practical experience as a master massage therapist that may be gained in part or in whole as:

(1) An assistant to an instructor in a massage school; or

(2) A directed instructor in a massage school; and

(b) Continuing education as approved by the ~~Department of Health~~department;

(ii) On or after July 1, 2010, has been an active and practicing licensee and registered as a master massage therapist for a period of not fewer than three (3) years preceding the application for an upgrade to massage therapy instructor;

(iii) On or after July 1, 2010, in addition to the experience under subdivision (b)(17)(A)(i) of this section has completed no fewer than two hundred fifty (250) continuing education hours as approved by the ~~Department of Health~~department as a licensed master massage therapist; and

(iv) Is determined by the ~~Department of Health~~department to be qualified to be licensed and registered to practice massage therapy.

(B) "Massage therapy instructor" includes a person who has previously obtained the massage therapy instructor license under prior state law.

(C) Massage therapy instructors may instruct:

(i) Continuing education programs approved by the ~~Department of Health~~department;

(ii) Any of the procedures in subdivision (b)(12) of this section; and

(iii) Basic curricula in a massage therapy school registered by the ~~Department of Health~~department as required by Arkansas Code § 17-86-306(e);

(1820) "Massage therapy learning permit" means a permit issued by the ~~Department of Health~~department before enrollment in a massage therapy apprenticeship program or in a massage therapy school that is valid for no longer than six (6) months after:

(A) Completion of the apprenticeship; or

(B) Graduation from the massage therapy school;

(~~1921~~) "Massage therapy student" means a person who is enrolled in a licensed massage therapy school or postsecondary massage therapy school;

(~~2022~~) "Massage therapy school" means a registered and licensed facility that meets and follows:

(A) The required educational standards as established by Arkansas Code § 17-86-306; and

(B) All pertinent rules established by the State Board of Health;

(~~2123~~) "Massage therapy spa" means a site or premises or portion of a site or premises in which a massage therapist practices massage;

(~~2224~~)(A) "Master massage therapist" means a person who:

(i) Before July 1, 2010, is a licensed and registered massage therapist who has completed no fewer than:

(a) Two hundred fifty (250) hours of practical experience as a massage therapist that may be gained in part or in whole as an assistant to an instructor in a massage school; and

(b) One hundred twenty-five (125) continuing education hours as approved by the Department of Health;

(ii) Either:

(a) On or after July 1, 2010, has:

(1) Been an active and practicing licensee and registered as a massage therapist for a period of not fewer than two (2) years preceding the application for an upgrade to master massage therapist; and

(2) Completed no fewer than one hundred twenty-five (125) continuing education hours as approved by the Department of Health; or

(b) On or after July 1, 2023, has:

(1) Been an active practicing licensee and registered as a massage therapist for the period of not fewer than twelve (12) months preceding the application for an upgrade to master massage therapist; and

(2) Completed not fewer than three hundred (300) hours of advanced coursework in massage therapy as part of an Associate of Applied Science degree of massage therapy from an accredited college or university; and

(iii) Is determined by the ~~Department of Health~~department -to be qualified to be licensed and registered to practice massage therapy.

(B) "Master massage therapist" includes a person who has previously obtained the master massage therapist license under a prior state law.

(C) Master massage therapists may instruct:

(i) Continuing education programs approved by the Department of Health;

(ii) Any of the procedures listed in the definition of massage therapy in this section; and

(iii) As directed by a massage therapy instructor, basic curricula in a massage therapy school registered by the ~~Department of Health~~department -as required by Arkansas Code § 17-86-306(e);

(~~2325~~) "NCBTMB" means National Certification Board of Therapeutic Massage and Bodywork;

(~~2426~~) "Owner" means an individual who is a sole proprietor, member, shareholder, or holder of an ownership interest, directly or indirectly, in a partnership, association, joint venture, corporation, limited liability company, or trust that owns or controls a:

(A) Massage therapy school; or

(B) Postsecondary massage therapy school;

(~~2527~~) "Passing grade" means a score of seventy percent (70%) or better;

(~~2628~~) "Postsecondary massage therapy school" means a massage therapy school that:

(A) Offers a postsecondary curriculum approved by the State Board of Health; and

(B) Has an enrollment in which no more than fifty percent (50%) of its students do not have:

- (i) A diploma; or
- (ii) The recognized equivalent of a high school diploma;

(29) "Principal" means each owner, member, shareholder, partner, or other person with a financial interest in an entity applying for or holding a massage therapy establishment registration;

(2730) "Sexual misconduct" includes:

(A) A range of behavior used to obtain sexual gratification against another's will, at the expense of another, without the client's knowledge, engaging in sexual activity for profit, or a combination of any of these activities;

(B) Massage of:

- (i) The genitalia;
- (ii) The anus; and
- (iii) Except under specific circumstances, the breast; and

(C) Sexual activity:

- (i) With consent of a client; or
- (ii) At the request of a client;

(2831) "Uniformed service member" means an active or reserve component member of the:

- (A) United States Air Force;
- (B) United States Army;
- (C) United States Coast Guard;
- (D) United States Marine Corps;
- (E) United States Navy;
- (F) United States Space Force;
- (G) National Guard;
- (H) National Oceanic and Atmospheric Administration Commissioned

Officer Corps; or

(I) United States Commissioned Corps of the Public Health Service; and

(2932) "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

17 CAR § 52-103. Applicability of rules.

This part is not applicable to any massage therapy ~~clinic establishment~~ under the control or direction of a duly licensed physician, nor does it apply to licensed medical hospitals and similarly licensed medical institutions.

17 CAR § 52-104. Prohibitions.

The following practices are not within the scope of massage therapy as defined in Arkansas Code:

- (1) Colonic irrigation and other methods of internal hydrotherapy;
- (2) Depilation, waxing, extractions, and electrolysis;
- (3) Practices involving the use of ultrasound, unless:
 - (A) The therapist can present educational qualifications acceptable to the Department of Health; and
 - (B) A licensed physician prescribes the treatment; and
- (4) Piercing, lancing, or penetrating the skin.

17 CAR § 52-105. Enforcement.

(a)(1) ~~AA~~ ~~establishment~~~~clinic owner~~~~principal~~, mobile ~~establishment~~ ~~clinic owner~~~~principal~~, or school ~~owner~~ ~~principal~~ and the person in charge of any such ~~establishment~~~~clinic~~, mobile ~~establishment~~~~clinic~~, or school shall be liable for implementing and maintaining this part in the:

- (A) ~~Establishment~~~~Clinic~~;
- (B) Mobile ~~establishment~~~~clinic~~; or
- (C) School.

(2) This shall be done individually and jointly with all persons employed by or working in or on the premises of such:

- (A) ~~Establishment~~~~Clinic~~;
- (B) Mobile ~~establishment~~~~clinic~~; or
- (C) School.

(3) All therapists, establishmentclinic, mobile establishmentclinic, or school ownersprincipals, and students shall be held individually liable for implementation and maintenance of this part as applicable.

(b) All persons performing acts of massage therapy shall present satisfactory proof of identification upon request by an authorized representative of the Department of Health.

(c)(1) All persons working in ~~a-an~~ establishmentclinic, mobile establishmentclinic, or school shall present a photographic driver's license or photographic identification card issued by any state, federal, or other recognized government entity.

(2) Failure to present valid proof of identification shall be grounds for disciplinary action.

(d) Conducting or operating ~~a-an~~ establishmentclinic, mobile establishmentclinic, or school without a current, valid registration shall be grounds for disciplinary action.

(e) Allowing a person to engage in or attempt to engage in the occupation of massage therapy in or about ~~a-an establishment clinic~~ or mobile establishment, clinic or allowing a person to engage in or about a school of massage therapy without a current valid Arkansas license, shall be grounds for disciplinary action.

(f) Performing acts of massage therapy or attempting to perform acts of massage therapy for compensation in any form without a current, valid Arkansas license shall be grounds for disciplinary action.

17 CAR § 52-106. Access for enforcement of rules.

(a) To ensure compliance with the laws and rules governing the operations of schools of massage therapy and clinicesestablishments, the Department of Health's authorized representatives shall have access to enter any and all parts of the premises of any school of massage therapy or clinic-establishment that is open for business, or at any time that the instruction or practice of massage therapy is being conducted, for the purpose of making inspections to determine compliance with this part.

(b) The department shall also be permitted access to all required records.

(c) Refusal to permit or interference with an inspection and/or audit constitutes a cause for disciplinary action.

17 CAR § 52-107. Authorization by the Department of Health.

(a) Any person, firm, or corporation desiring to open a massage therapy ~~clinic establishment~~ or school shall submit an application for license or for registration to the Department of Health for approval.

(b)(1) Any person, ~~firm, or corporation or entity~~ who has applied for a registration to operate a massage therapy ~~clinic establishment~~ will receive a registration letter allowing the ~~owner principal~~ to operate the ~~clinic establishment~~ or school.

(2) The registration letter shall be conspicuously posted in the ~~clinic establishment~~ or school.

(c)(1) Any person, ~~firm, or corporation or entity~~ conducting or operating a massage therapy ~~clinic establishment~~ shall be required to obtain a current ~~clinic establishment~~ registration letter prior to operating said ~~clinic establishment~~.

(2) The ~~proprietor principals~~ shall be responsible for compliance with the law and all rules promulgated by the State Board of Health.

(d)(1) Any person, ~~firm, or corporation or entity~~ conducting or operating a school of massage therapy or a postsecondary school of massage therapy shall be required to obtain a current license prior to operating.

(2) The ~~proprietor principal~~ shall be responsible for compliance with the laws ~~of the State of Arkansas~~ and all rules promulgated by the board.

(e)(1) An institution wishing to teach both secondary and postsecondary students shall obtain both a license for a School of Massage Therapy and a Postsecondary School of Massage Therapy.

(2) The school shall also provide a procedure by which it will ensure that only students with a high school diploma or the equivalent:

- (A) Are enrolled in the postsecondary school; and
- (B) Receive Title IV funds.

17 CAR § 52-108. Consumer information.

(a) A copy of the most recent inspection sheet shall be posted in a conspicuous area.

(b) All official massage therapy ~~school~~school licenses, massage therapy postsecondary ~~school~~school licenses, Massage Therapist licenses, Master Massage Therapist licenses, Massage Instructor licenses, and ~~spa and clinic~~establishment registration letters shall be conspicuously posted in a designated place:

- (1) In reception areas;
- (2) Outside individual work rooms; or
- (3) In the ~~clinic~~establishment area.

(c) A copy of the online complaint website and phone number for the Department of Health Cosmetology, Body Art, and Massage Therapy Section shall be posted in a designated place:

- (1) In reception areas;
- (2) Outside individual work rooms; or
- (3) In the ~~clinic~~establishment area.

(d) (1) Pursuant to Acts 2025, No. 484, all establishments and schools shall post in a conspicuous place near the entrance of the establishment or school and in restrooms, a poster:

(A) measuring at least eight and one-half inches by eleven inches (8 1/2" x 11") in size; and

(B) containing information about the National Human Trafficking Resource Center Hotline.

(2) The poster shall include the following:

"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the National Human Trafficking Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under United States and Arkansas state law.

The Hotline is:

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Available 24 hours a day, 7 days a week;
Toll-Free;
Operated by a non-profit, non-governmental organization;
Anonymous and confidential;
Accessible in 170 languages;
Able to provide help, referral to services, training, and general information."

(C) The poster shall be printed in English, Spanish, and any other language mandated by the Voting Rights Act of 1965, 42 U.S.C. §1973, as it existed on January 1, 2013, in the county where the poster will be posted.

(3) The poster shall be available on the websites of all of the following:

(A) The Alcoholic Beverage Control Board where documents associated with obtaining a liquor license or alcoholic beverage license are customarily located;

(B) The Department of Labor and Licensing; and

(C) The Department of Transportation.

(4)(A) A massage therapy establishment or school's failure to comply with this section shall result in the following disciplinary action:

(i) For a first violation, a warning; and

(ii) For a second or subsequent violation, a fine not to exceed five hundred (\$500) dollars.

(B) The violation of or noncompliance with this section, and each day's continuance thereof, shall constitute a separate and distinct violation.

17 CAR § 52-109. Inspections.

(a) Initial, routine, and complaint inspections are conducted to ensure compliance with licensing law and rules.

(b)(1) Any inspector shall have the authority to enter into and inspect any massage therapy ~~spa, clinic, establishment~~ or school at any time during business hours.

(2) Massage therapy ~~establishment spas or clinics~~ are inspected at least annually, but not limited to, to ensure compliance with the licensing law and rules

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promulgated by the State Board of Health unless complaints are received by the Department of Health.

(c) The inspectors shall have the authority to:

(1) Examine identification of persons working at a massage therapy ~~establishment spa or clinic~~ or massage therapy school or otherwise engaging in the practice of massage therapy;

(2) Examine licenses;

(3) Inspect buildings and equipment;

(4) Report violations of the law or rules;

(5) Investigate complaints; and

(6) Perform initial inspections of new:

(A) ~~Spas~~ Establishment; and

~~(B) Clinics; and~~

~~(C)~~ Schools.

17 CAR § 52-110. Complaints.

(a) Any person may file a complaint on any of the grounds for disciplinary action provided in Arkansas Code § 17-86-311(a) of the Massage Therapy Act, Arkansas Code § 17-86-101 et seq., against any of the following:

(1) A person who practices massage therapy;

(2) A massage therapy ~~establishment~~ clinic/spa; or

(3) A massage therapy school or postsecondary massage therapy school.

(b) Official complaints must be made in writing within ninety (90) days from the date of infraction, notwithstanding complaints for sexual misconduct as defined under Arkansas Code § 17-86-102.

(c) Complaints will be investigated by the Department of Health and its staff.

(d) The department has the authority to investigate all such written complaints and investigate and refer to the Massage Therapy Technical Advisory Committee (MTTAC) any information that comes to its attention constituting reasonable belief that a violation of law or rule has occurred.

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17 CAR § 52-111. Hearings.

(a) If findings are made against a licensee, establishment/clinic/spa, or massage therapy school or postsecondary massage therapy school, a hearing shall be held by the Massage Therapy Technical Advisory Committee (MTTAC).

(b) The MTTAC will hold any necessary hearings at the regular quarterly meetings.

(c) Appeals of MTTAC findings may be heard by the State Board of Health.

(d) For the purpose of adjudicative hearings on complaints, the Department of Health shall comply with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 52-112. Location.

(a) The office of the Cosmetology, Massage Therapy, and Body Art Sections is located at 4815 West Markham, Little Rock, Arkansas 72205.

(b) All matters related to massage therapy licensing should be directed to the Massage Therapy Section office by:

(1) Calling 501-683-1448; or

(2) Emailing the Massage Therapy Section at adh.massage@arkansas.gov.

(c) Information may also be obtained by accessing the Department of Health's website at healthy.arkansas.gov.

17 CAR § 52-113. Policies and procedures.

(a) The Department of Health designates all forms and letters as necessary.

(b)(1) The Massage Therapy Technical Advisory Committee (MTTAC):

(A) May meet on a quarterly basis and at other times as deemed necessary by the Department of Health; and

(B) Follows all requirements of the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., and all other applicable state laws in conducting such meetings.

(2)(A) The MTTAC shall consist of seven (7) members who shall be appointed by the State Board of Health for a term of three (3) years.

(B) The composition of the MTTAC shall be as follows:

- (i) Six (6) shall be licensees under the Massage Therapy Act, Arkansas Code § 17-86-101 et seq.;
- (ii) Only one (1) shall be an owner of a massage therapy school; and
- (iii) One (1) member to represent the public shall not be engaged in or retired from the practice of massage therapy.

(3) The powers and duties of the MTTAC are as follows:

- (A) Recommend rule changes to the board;
- (B) Recommend CEU approval to the Department of Health; and
- (C) Hold initial hearings and determinations as described in 17 CAR § 52-

111.

(c) Requests for items to be placed on the MTTAC's agenda must be submitted to the Department of Health's Massage Therapy Section in writing at least fourteen (14) days prior to the applicable MTTAC meeting.

(d) A copy of the Massage Therapy Act and a copy of this part shall be:

- (1) Posted on the Department of Health's website; and
- (2) Available for download.

~~—(e)(1) An applicant applying for enrollment in a massage therapy school, postsecondary massage therapy school, or a massage therapy apprenticeship program or applying as a new massage therapy licensee, an individual applying for a new massage therapy school license, or a licensee applying for an upgrade issued by the Department of Health shall apply to the Identification Bureau of the Division of Arkansas State Police for a state and federal criminal background check to be conducted by the:~~

~~—(A) Identification Bureau of the Division of Arkansas State Police; and~~

~~—(B) Federal Bureau of Investigation;~~

~~—(2) The state and federal criminal background check shall:~~

~~—(A) Conform to applicable federal standards; and~~

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~~(B) Include the taking of fingerprints;~~

~~(e)(1) The following shall apply to the Identification Bureau of the Arkansas State Police for a state and federal criminal background check:~~

~~(A) An applicant applying for enrollment in a:~~

~~(i) Massage therapy school;~~

~~(ii) Postsecondary massage therapy school; or~~

~~(iii) Massage therapy apprenticeship program;~~

~~(B) An individual applying as a new massage therapy licensee;~~

~~(C) An individual applying for a new massage therapy school license;~~

~~(D) An person applying individually or as principal of an entity applying for a massage therapy establishment registration; or~~

~~(E) A licensee applying for an upgrade issued by the department;~~

~~(2) The state and federal criminal background check shall be conducted by the:~~

~~(A) Identification Bureau of the Division of Arkansas State Police; and~~

~~(B) Federal Bureau of Investigation;~~

~~(3) The state and federal criminal background check shall:~~

~~(A) Conform to applicable federal standards; and~~

~~(B) Include the taking of fingerprints;~~

(34) The applicant shall:

(A) Sign a release of information to the Department of Health; and

(B) Be responsible for the payment of any fees associated with the state and federal criminal background check;

(45) Each applicant who has resided outside of Arkansas shall provide a state and federal criminal background check, including the taking of fingerprints, issued by the state or states in which the applicant resided; and

(56) Results shall be sent directly to the Department of Health from the agency performing the state and federal criminal background check.

(f) The MTTAC may deny, suspend, place on probation, or revoke a license or registration if a licensee, registration holder, or applicant has pleaded guilty or nolo

contendere to or been found guilty of any felony listed under Arkansas Code § 17-3-102.

(g) Prelicensure criminal background check.

(1) Pursuant to Acts 2019, No. 990, an individual may petition for a prelicensure determination of whether:

(A) The individual's criminal record will disqualify the individual from licensure; and

(B) A waiver may be obtained.

(2) The individual must obtain the prelicensure criminal background check petition form from the Department of Health.

(3) The Department of Health will respond with a decision in writing to a completed petition within a reasonable time.

(4) The Department of Health's response will state the reasons for the decision.

(5) All decisions of the Department of Health in response to the petition will be determined by the information provided by the individual.

(6) Any and all decisions made by the Department of Health in response to a prelicensure criminal background check petition are not subject to appeal.

(7) The Department of Health will keep and maintain a copy of the petition and response that will be reviewed during the formal application process.

(h) Waiver request.

(1) If an individual has been convicted of a felony listed in Arkansas Code § 17-3-102, the Department of Health may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by an:

(A) Affected applicant for a license; or

(B) Individual holding a license subject to revocation.

(2) The Department of Health may grant a waiver upon consideration of the following without limitation:

(A) The age at which the offense was committed;

- (B) The circumstances surrounding the offense;
- (C) The length of time since the offense was committed;
- (D) Subsequent work history since the offense was committed;
- (E) Employment references since the offense was committed;
- (F) Character references since the offense was committed;
- (G) Relevance of the offense to the occupational license; and
- (H) Other evidence demonstrating that licensure of the applicant does not

pose a threat to the health and safety of the public.

(3)(A) A request for a waiver if made by an applicant must:

- (i) Be in writing; and
- (ii) Accompany the completed application and fees.

(B) A request for waiver if made by a licensee or registration holder must be in writing.

(4) The Department of Health will:

- (A) Respond with a decision in writing; and
- (B) State the reasons for the decision.

(5) Appeals under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(i)(1) Applicants for licensure are considered who have completed and graduated with a minimum of five hundred (500) in-classroom hours of massage therapy classes or proof is given of completion of the specific classes and hours taken as required in Arkansas massage schools.

(2) Each course must be a passing grade of seventy-five percent (75%) or higher.

(j) Fee waiver under Acts 2021, No. 725.

(1)(A) Pursuant to Acts 2021, No. 725, an applicant may receive a waiver of the initial licensure fee if eligible.

- (B) Eligible applicants are applicants who:
 - (i) Are receiving assistance through the:

(a) Arkansas Medicaid Program or current state of residence equivalent;

(b) Supplemental Nutrition Assistance Program (SNAP);

(c) Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);

(d) Temporary Assistance for Needy Families Program (TEA); or

(e) Lifeline Assistance Program (LAP);

(ii) Were approved for unemployment within the last twelve (12) months; or

(iii) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(2)(A) Applicants shall provide documentation showing their receipt of benefits from the appropriate state agency.

(B) For Medicaid, SNAP, WIC, TEA, or LAP, documentation from the:

(i) Department of Human Services (DHS); or

(ii) Current state of residence equivalent agency.

(C) For unemployment benefits approval in the last twelve (12) months, the:

(i) Division of Workforce Services; or

(ii) Current state of residence equivalent agency.

(D) For proof of income, copies of all Internal Revenue Service forms indicating applicant's total personal income for the most recent tax year, e.g., W2, 1099, etc.

(3) Applicants shall attest that the documentation provided under subdivision (j)(2) of this section is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

(k) Licensure for massage therapist through apprenticeship under the Earn and Learn Act, Arkansas Code § 17-6-101 et seq.

(1)(A) An applicant for licensure for massage therapist under this part shall provide satisfactory proof of completion of apprenticeship via official documentation from the apprenticeship program.

(B) This documentation may be in the form of a:

- (i) Certificate, diploma, or similar official credential; or
- (ii) Letter on official program letterhead.

(2) An applicant for licensure under this part shall provide satisfactory documentation that the completed apprenticeship program:

(A) Meets the federal guidelines set out in 29 C.F.R. pt. 29 as existing on March 1, 2021; and

(B) Has been approved by the:

- (i) Office of Apprenticeship; or
- (ii) Division of Workforce Services.

(3) An applicant for licensure under this part shall meet all the other noneducational requirements for licensure under this part including 17 CAR §§ 52-115(b) and 52-117.

(4) If an applicant is denied a license for failing to meet the criteria in subdivisions (k)(1) – (3) of this section, the applicant shall be provided the reason for denial in writing.

17 CAR § 52-114. Licensing and renewals.

(a) The Department of Health may administer an examination of its own preparation as the state licensing examination for Arkansas massage therapists to be administered at the time and place the department so designates.

(b) The department will accept any of the following in lieu of the state licensing examination provided that the applicant passes a department examination that verifies their knowledge of the Massage Therapy Act, Arkansas Code § 17-86-101 et seq., and of this part that govern the practice of massage therapy in the state:

(1) Federation of State Massage Therapy Boards Massage & Bodywork Licensing Exam (MBLEx);

- (2) National Certification Examination for Therapeutic Massage (NCETM); or
- (3) National Certification Examination for Therapeutic Massage & Bodywork (NCETMB).

(c) In the instance of multiple exams, the department reserves the right to approve additional exams that are equivalent to those listed in subsection (b) of this section.

(d) The department may:

- (1) At its discretion require a practical examination; and
- (2) Publish guidelines for the examination so that applicants might have insight into what would be expected to be demonstrated.

(e)(1) Every massage therapy license, active or inactive:

- (A) Is valid for a period of two (2) years; and
- (B) Expires on the licensee's birthday.

(2) The licensee must submit the following for renewal of his or her license:

- (A) A completed license renewal application;
- (B) Payment of the appropriate fees; and
- (C) Documented proof of no fewer than eighteen (18) hours of continuing education that have been approved in accordance with 17 CAR § 52-117.

(3) A renewal application must be postmarked on or before the first day of the month preceding the month in which the licensee's birthday falls in the biennial renewal year.

Example.

Joe's birthday is June 14 and his license expires in 2011. His renewal application must be postmarked on or before May 1, 2011.

(4) A renewal application postmarked after the first day of the month preceding the month in which the licensee's birthday falls shall be charged a late fee of twenty-five dollars (\$25.00) in addition to renewal fees.

(5)(A) A license is expired if application is postmarked after the birthday of the licensee in the biennial renewal year.

(B) Before the department issues a new license to an applicant with an expired license, the applicant shall:

(i) Submit a new application that requires the applicant to meet current requirements; and

(ii) Successfully complete an examination recognized by the department.

(f) Renewal application forms will be mailed out the first of the month preceding the month they are due.

(g)(1) Any individual licensee who is currently not practicing and wishes to place his or her license on the inactive list shall:

(A) Submit a renewal application for inactive status every two (2) years even if remaining inactive;

(B) Surrender his or her current license to the department;

(C) Not practice massage therapy during the time licensee is on the inactive list; and

(D) Not remain on the inactive list for a period to exceed four (4) years without reexamination.

(2) An individual who has been placed on the inactive list for fewer than four (4) years and wishes to reactivate licensure shall:

(A) Follow the procedures for license renewal;

(B) Present satisfactory evidence of completion of continuing education hours for the inactive period; and

(C) Pay all appropriate fees before resuming active practice of massage therapy.

(3) An individual who passes the four-year time allotment:

(A) Shall be considered to have an expired license; and

(B) Must meet the current requirements for licensure and successfully complete an examination recognized by the department before resuming active practice of massage therapy.

(h) Persons practicing with an expired license may be referred for prosecution or civil action for practicing without a license and penalties of Arkansas Code § 17-86-103 may be applied.

17 CAR § 52-115. Reciprocity, temporary licensure, and military licensure.

(a) Reciprocity under Acts 2019, No. 1011.

(1) **Required qualifications for reciprocity.** An applicant applying for reciprocal licensure shall meet the following requirements:

(A)(i) The applicant shall hold a substantially similar license in another United States jurisdiction.

(ii) A license from another state is substantially similar to an Arkansas massage therapy license if the other state's licensure qualifications require:

(a) Completed and graduated with a minimum of five hundred (500) in-classroom hours of massage therapy classes; or

(b) Proof given of completion of the specific classes and hours taken as required in Arkansas massage schools as required by Arkansas Code § 17-86-306(e).

(iii) The applicant shall hold his or her occupational licensure in good standing;

(B) The applicant shall not have had a license revoked for:

(i) An act of bad faith; or

(ii) A violation of:

(a) Law;

(b) Rule; or

(c) Ethics;

(C) The applicant shall not hold a suspended or probationary license in a United States jurisdiction; and

(D) The applicant shall:

(i) Be sufficiently competent in massage therapy;

- (ii) Pass a licensing exam comparable 17 CAR § 52-114(b); and
- (iii) Pass the Arkansas Massage Therapy Law examination.

(2) Required documentation.

(A) An applicant shall submit:

- (i) A fully-executed application;
- (ii) The required fee; and
- (iii) The documentation described below.

(B) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas, the applicant shall submit the following information:

(i)(a) Evidence of current and active licensure in that state.

(b) The Department of Health may verify this information online if the jurisdiction that issues provides primary source verification on its website; and

(ii)(a) Evidence that the other state's licensure requirements match those listed in subdivision (a)(1)(A)(ii) of this section.

(b) The department may verify this information online if the jurisdiction that issues provides primary source verification on its website.

(C) To demonstrate that the applicant meets the requirements in subdivisions (a)(1)(B) – (D) of this section, the applicant shall provide the department with:

(i) The names of all states in which the applicant is currently licensed or has been previously licensed; and

(ii)(a) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant:

(1) Has not had his or her license revoked for the reasons listed in subdivision (a)(1)(B) of this section; and

(2) Does not hold a license on suspended or probationary status as described in subdivision (a)(1)(C) of this section.

(b) The department may verify this information online if the jurisdiction that issues provides primary source verification on its website.

(D) As evidence that the applicant is sufficiently competent in the field of massage therapy, an applicant shall:

(i) Pass a licensing exam comparable to 17 CAR § 52-114(b) and pass the Arkansas Massage Therapy Law examination; and

(ii) Submit three (3) letters of recommendation from:

(a) Former employers;

(b) Former educators; or

(c) Clients.

(E)(i) Documents required to show compliance with least restrictive requirements:

(a) A valid photo identification or driver's license, or both;

(b) A social security card issued in the same name as the applicant or licensee; and

(c) A high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department-accepted massage therapy school or a like institution with no fewer than five hundred (500) in-classroom hours of instruction.

(ii)(a) An applicant shall have the massage therapy school submit the transcript directly to the department.

(b) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.

(c) Other documentation of credentials may be submitted and accepted for licensure.

(iii) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department.

(F)(i) An out-of-state applicant holding a current massage therapy license issued by another state and after receiving an Arkansas massage therapy license may apply for an upgrade to master massage therapist or massage therapy instructor by providing appropriate continuing education credits and experience gained before Arkansas licensure for department approval.

(ii) An upgrade request shall be made by submitting a complete application package and paying the fees required by Arkansas Code § 17-86-301 et seq.

(b) Temporary license.

(1) The department shall issue a temporary license immediately upon receipt of the:

- (A) Application;
- (B) Required fee; and
- (C) Documentation required under subdivisions (b)(2) and (b)(3) of this

section.

(2) The temporary license shall be effective for ninety (90) days unless the department determines that the applicant does not meet the requirements for reciprocity in subdivision (a)(2) of this section in which case the temporary license shall be immediately revoked.

(3) An applicant may provide the rest of the documentation required above in order to receive a license or the applicant may only provide the information necessary for the issuance of a temporary license.

(c) License for person from state that does not license profession pursuant to Acts 2019, No. 1011.

(1) **Required qualifications.** An applicant from a state that does not license massage therapy shall meet the following requirements:

- (A) Be sufficiently competent in massage therapy;
- (B) Pass:
 - (i) A licensing exam comparable to 17 CAR § 52-114(b); and
 - (ii) The Arkansas Massage Therapy Law examination; and
- (C) Submit three (3) letters of recommendation from:
 - (i) Former employers;
 - (ii) Former educators; or
 - (iii) Clients.

(2) **Required documentation.** An applicant shall submit:

- (A) A fully executed application;

(B) The required fee; and

(C)(i) The documentation described below.

(ii) As evidence that the applicant is sufficiently competent in the field of massage therapy an applicant shall:

(a) Pass:

(1) A licensing exam comparable to 17 CAR § 52-114(b);

and

(2) The Arkansas Massage Therapy Law examination; and

(b) Submit three (3) letters of recommendation from:

(1) Former employers;

(2) Former educators; or

(3) Clients.

(iii) A valid:

(a) Photo identification;

(b) Driver's license; or

(c) Both.

(iv) A social security card issued in the same name as the applicant or licensee.

(v) A high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department-accepted massage therapy school or a like institution with no fewer than five hundred (500) in-classroom hours of instruction.

(vi)(a) An applicant shall have the massage therapy school submit the transcript directly to the department.

(b) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.

(c) Other documentation of credentials may be submitted and accepted for licensure.

(vii) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department.

(d) Reciprocity and state-specific education pursuant to Acts 2019, No. 1011.

(1) The department shall require an applicant to take no fewer than five hundred (500) in-classroom hours of instruction at a department-accepted massage therapy school or a like institution if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity provided to out-of-state applicants in Arkansas Code § 17-1-108.

(2) Reciprocity in another state will be considered similar to reciprocity under Arkansas Code § 17-1-108 if the reciprocity provisions in the other state:

(A) Provide the least restrictive path to licensure for Arkansas applicants;

(B) Do not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a new professional in that state except that the state may require Arkansas applicants to participate in continuing education or training that is required for all professionals in that state to maintain the licensure; and

(C) Do not require Arkansas applicants to take state-specific education unless required to do so under the same conditions described in Arkansas Code § 17-1-108.

(e) Automatic occupational licensing of uniformed service members, veterans, and spouses under Acts 2023, No. 137.

(1) This section applies to:

(A) A uniformed service member stationed in the State of Arkansas;

(B) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(C) The spouse of a uniformed service member stationed in the State of Arkansas or a uniformed service veteran who resides in or establishes residency in the State of Arkansas, including a uniformed service member who is:

(i) Assigned a tour of duty that excludes the spouse from accompanying the uniformed service member and the spouse relocates to Arkansas; or

(ii) Killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in Arkansas.

(2) Automatic licensure shall be granted to persons listed in subdivision (e)(1) of this section if the person:

(A) Is a holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States; and

(B) Pays the licensure fee in 17 CAR § 52-114.

(3) **Credit toward initial licensure.** Relevant and applicable uniformed service education, training, national certification, or service-issued credential shall be accepted toward initial licensure.

(4) **Expiration dates.** A license expiration date shall be extended for a deployed uniformed service member or spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(5) **Continuing education.** A uniformed service member or spouse shall be exempt from continuing education requirements in 17 CAR § 52-116 for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(6) Any uniformed service member or spouse exercising the exemption shall provide evidence of completion of continuing education before renewal or grant of a subsequent license.

17 CAR § 52-116. Continuing education.

(a)(1) All courses for continuing education must fall within the scope of practice of massage therapy.

(2) Courses, demonstrations, and workshops offered within the State of Arkansas must be submitted to the Department of Health for prior approval for continuing education credits unless approved by:

(A) NCBTMB;

(B) AMTA; or

(C) ABMP.

(b)(1) For the purpose of renewing or upgrading a license, credits may be approved for courses that are:

(A) Preapproved by the Department of Health;

(B) Officially transcribed courses from a United States Department of Education-approved and United States Department of Education-accredited postsecondary institution completed with a passing grade in anatomy, physiology, kinesiology, biomechanics, pathology, medical terminology, or other related courses within the scope of practice of massage therapy; or

(C) Out-of-state continuing education courses that fall within the scope of practice of massage therapy that are approved by:

(i) NCBTMB;

(ii) AMTA; or

(iii) ABMP.

(2) Courses falling outside above guidelines may be submitted for consideration.

(c) Home study and online courses may be approved by the Department of Health providing all the following criteria are met:

(1)(A) The course is preapproved by:

(i) The Department of Health;

(ii) NCBTMB;

(iii) AMTA; or

(iv) ABMP.

(B) The course must fall within the scope of practice of massage therapy.

(2) The course content cannot be in a hands-on subject matter.

(3)(A) The course or courses cannot:

(i) Comprise more than six (6) of the total eighteen (18) continuing education hours needed for biannual renewal; and

(ii) Be repeated for renewal or upgrade purposes.

(B) During a statewide state of disaster emergency related to public health as declared by the Governor in accordance with Arkansas Code § 12-75-107, the

MTTAC may upon motion and vote temporarily suspend the requirement that no more than six (6) of the total eighteen (18) continuing education hours needed for biannual renewal be home study or online courses until such time that:

(i) MTTAC determines the suspension be terminated; or

(ii) The statewide state of emergency has terminated or ended in accordance with Arkansas Code § 12-75-107.

(d)(1) Each course requesting Department of Health approval must present all required information on the forms prescribed by the Department of Health with appropriate fees.

(2) Courses must be relevant to the field of massage therapy as defined in 17 CAR § 52-102.

(3) Courses must have the following:

(A) Proposed title;

(B) Schedule of course;

(C) Learning outcomes;

(D) Session description;

(E) Relevance of course;

(F) Program content/time frame;

(G) Teaching strategies; and

(H) Learning environment.

(4) Courses must be instructed by a person who meets one (1) of the following:

(A)(i) Has completed specialized related training.

(ii) For every one (1) hour of CE to be taught the instructor must have five (5) hours of specialized related training.

(iii) The Department of Health may give credit for:

(a) Extensive experience teaching the course or related courses;

or

(b) Years employed in the field;

(B) Has obtained instructor credentials specific to the practice;

(C) Has:

- (i) Discovered and/or developed massage techniques; and
- (ii) A minimum of two (2) years of practical experience related to the

subject; and

(D) Meets at least two (2) of the following criteria:

- (i) Holds a current Arkansas massage therapist license;
- (ii) Graduated from a:

(a) Massage therapy school or postsecondary massage therapy school approved by the Department of Health; or

(b) School with a comparable curriculum;

(iii) Holds a minimum of a bachelor's degree with a major in a subject related to the content of the program offered; or

(iv) Presents to the Department of Health evidence of a substantial amount of education, training, and knowledge sufficient, in the discretion of the Department of Health, to qualify their expertise in the field.

(e)(1) Preapproved continuing education providers must comply with the following rules:

(A) Retain an attendance record of participants with copies of course materials for at least three (3) years following the conclusion of the course;

(B) Furnish each participant with a certificate of attendance or transcript verifying the participant's successful program completion:

- (i) The certificate shall not be issued until completion of the course;

and

- (ii) The certificate must contain the:

(a) Participant's name;

(b) Instructor's name and signature;

(c) Title of the course;

(d) Dates the course was given;

(e) Department of Health approval number; and

(f) Number of credit hours earned; and

(C)(i) Submit course revisions to the Department of Health for approval.

(ii) Course revisions are defined as changes to the following:

(a) Proposed title;

(b) Schedule of course;

(c) Learning outcomes;

(d) Relevance of course;

(e) Program content/time frame;

(f) Teaching strategies; and

(g) Learning environment;

(iii) Course revisions affecting less than ten percent (10%) of the currently approved content may be approved by the Department of Health.

(iv) Course revisions exceeding ten percent (10%) of the currently approved content may be approved by the Massage Therapy Technical Advisory Committee.

(2) One (1) hour of continuing education credit is defined as no fewer than fifty (50) minutes of uninterrupted in-classroom learning, practical demonstration, or practice of the technique in the presence of the instructor.

(3) Presenters/moderators/instructors of courses may not receive credit for the courses they present.

(4) The Department of Health:

(A) Retains the right to review programs given by the provider; and

(B) May rescind provider status or reject individual programs given by provider if the provider:

(i) Has disseminated any false or misleading information in connection with the continuing education program;

(ii) Has failed to conform to and comply with the written agreement and rules of the Department of Health;

(iii) Has failed to meet ethical standards; or

(iv) Is not providing consistent quality educational benefits to participants.

(5)(i) A written notice to rescind approval for continuing education courses will be sent to:

(a) The course approval applicant; and

(b) Any person or persons approved to instruct the course.

(ii) Instructors may request a hearing of a decision to rescind approval for continuing education course or courses.

(iii) The hearing shall be conducted according to 17 CAR § 52-111 and the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(f) Officially transcribed courses from a United States Department of Education-approved and accredited postsecondary institution completed with a passing grade may be accepted at the rate of three (3) college credit hours to equal forty (40) clock hours of education.

(g) For the purpose of upgrading a license, classes that repeat any of the applicant's specific entry-level five-hundred-hour coursework will not be accepted.

(h) For the purpose of upgrading a license, duplicated continuing education courses do not apply toward required hours for the upgrade.

(i)(1) The Department of Health shall audit five to ten percent (5% – 10%) of randomly selected active license renewals for compliance with continuing education requirements annually.

(2) Licensees who receive an audit form shall submit all appropriate documentation to substantiate compliance with the Department of Health's continuing education requirements within thirty (30) days of receipt.

(3) Each licensed massage therapist shall maintain records of continuing education for a period of three (3) years from the date of attendance.

17 CAR § 52-117. Massage ~~clinics~~therapy establishments.

(a) ~~To operate a massage therapy clinic, it first must be registered with the Department of Health.~~A person or entity shall not establish, maintain, or operate a massage therapy establishment unless the person or entity has registered the massage therapy establishment with the department.

(b) An applicant for a massage therapy establishment registration shall submit to the department:

(1) A completed massage therapy establishment registration initial application on the form provided by the Department;

(2) For each principal of the massage therapy establishment:

(A) The principal's legal name;

(B) The principal's massage therapy license number, if the principal is licensed by the department; and

(C) If requested by the department, documentation supporting the principal's interest in the massage therapy establishment;

(4) For each licensed massage therapists performing or expected to perform massage therapy services in the massage therapy establishment:

(A) The massage therapist's legal name; and

(B) The massage therapist's license number;

(5) If the applicant is an entity, a certificate of good standing from the Secretary of State; and

(6) If required by the political subdivision for where the massage therapy establishment is located, a copy of the business license issued by the relevant political subdivision.

(c) Each massage therapy establishment registration issued by the department shall be valid for two (2) years from the date of issuance.

(d) The massage therapy establishment registration is not transferable.

(e) If any information or documentation provided by the massage therapy establishment under this section changes after the initial or any subsequent renewal registration, the massage therapy establishment shall update the department within ten (10) business days of the change.

(f) Prior to the massage therapy establishment registration's expiration date, the massage therapy establishment shall submit to the department:

(1) A completed massage therapy establishment registration renewal application on the form provided by the department; and

(2) Any documentation or information that is required under 17 CAR § 52-117(b) that has changed since the approved initial registration or latest subsequent approved renewal registration, including without limitation:

(A) The list of all principals and their massage therapy license numbers, if applicable; and

(B) The list of all massage therapists performing or expected to perform massage therapy services in the massage therapy establishment, and their massage therapy license numbers.

(b) With the exception of treatments that are given at the location of a client or treatments given at a temporary location lasting not more than fourteen (14) days such as a trade show, sporting event, or community festival, massage therapist ~~clinics, spas, establishments~~ or other facilities must have an adequate workspace:

(1) The work area must be:

(A) Well-ventilated;

(B) Clean; and

(C) Well-equipped;

(2) There must be a sink for handwashing with hot and cold running water and soap must be accessible;

(3)(A) Prior to coming in contact with a client, all body surface area or areas that come into contact with a client must be sanitized ~~Sanitize all body surface area or areas that come into contact with a client prior to such contact~~ with a disinfecting solution that is:

(i) Bactericidal — capable of destroying bacteria;

(ii) Virucidal — capable of destroying viruses; and

(iii) Fungicidal — capable of destroying fungi;

(B) Disinfectants must be used according to manufacturer labels to be safe and effective.

(C) Contact time listed on the manufacturer's label must be adhered to at all times to effectively destroy pathogens;

(4) ~~Have accessible restrooms that are~~ Restrooms must be accessible and:

- (A) Clean and sanitary;
- (B) Without offensive odors; and
- (C) In working order at all times;

(5) ~~Keep furniture~~Furniture, equipment, electrical equipment, and other fixtures must be clean and in good repair at all times;

(6) ~~Launder linens~~Linens must be laundered after each use;

(7) ~~Have a separate receptacle for soiled~~ Soiled and clean linens must be kept in separate receptacles;

(8) ~~Keep clean~~Clean linens must be stored out of public use areas including but not limited to:

- (A) Restrooms;
- (B) Reception area;
- (C) Hallways; and
- (D) Other public traffic areas;

(9) ~~Keep oils~~Oils, lotions, or any other products that are used on clients must be kept in containers that are labeled and closed;

(10) ~~Be~~The facility must be compliant with all applicable city, state, and local statutes and regulations;

(11) In-home massage ~~clinics/offices~~therapy establishments must be located in a separate room or rooms used only for massage therapy services during ordinary business operations;

(12) There must be no bed in a room used for massage therapy services; and

(13) A school or ~~clinic-establishment~~ must be equipped with:

- (A) A massage table or tables;
- (B) A massage chair or chairs; and
- (C) Such standard equipment dictated by the practice of massage therapy.

(c) In-home massage ~~establishment clinics/offices~~ must be located in a separate room or rooms used only for massage therapy services during business operations.

(d) Mobile ~~establishment clinics~~ are not considered temporary.

(e)(1) Anyone who has an infectious, contagious, or communicable disease that may be spread by airborne, droplet, contact, or indirect methods and who is in contact with the public must not practice until all risk of disease transmission is cleared.

(2) Any employee with such a disease must be immediately relieved from duty until all risk of disease transmission is cleared.

17 CAR § 52-118. Massage therapy schools and postsecondary massage therapy schools.

(a) **General requirements.** "School" as used throughout this section includes unless otherwise indicated both:

- (1) Massage therapy schools; and
- (2) Postsecondary massage therapy schools.

(b) **Application for massage therapy school.**

(1) Any person, ~~firm, or corporation~~ or entity seeking to open a school of massage therapy shall:

(A) Submit an application with required forms to the Department of Health's Massage Therapy Section; and

(B) Receive preapproval from the Department of Health.

(2) The application shall include:

(A) Completed application:

(i) Provided by the department; and

(ii) Available on the department's website at

<http://www.healtharkansas.com>;

(B) A description of the location of your school, type of structure, and a detailed floor plan in compliance with subsection (e) of this section;

(C) List of proposed equipment used for instructional purposes in compliance with subsection (e) of this section;

(D) Proposed curriculum including:

(i) Name and edition of textbooks; and

(ii) Any other material that will be used for instructional purposes;

(E) List of instructors and their qualifications;

(F) Samples of all forms to be used in the school, such as contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.;

(G)(i) A copy of your school's handbook, including refund policy.

(ii) Postsecondary schools must also include a disciplinary policy;

(H) Valid background checks for each ~~owner~~principal; and

(I) The required nonrefundable registration fee (eight hundred fifty dollars (\$850)).

(3) A person or entity shall not establish, operate, or maintain a massage therapy school without first having obtained a certificate of massage therapy school licensure issued by the department.

(4)(A) Any massage therapy school wishing to teach both secondary and postsecondary students shall obtain both a license for a:

(i) Massage therapy school; and

(ii) Postsecondary massage therapy school.

(B) The school shall also provide a procedure by which it will ensure that only students with a high school diploma or the equivalent:

(i) Are enrolled in the postsecondary school; and

(ii) Receive Title IV funds.

(5)(A) After satisfactory completion of initial requirements, schools are required to undergo department inspection before they can be licensed.

(B) A department staff member will perform an inspection of the school premises with required forms completed and the results of such inspection will be returned to the department for approval and/or adjustment recommendations.

(C) Facilities that do not pass the first inspection will be reinspected within thirty (30) days of notification of corrections.

(6) Postsecondary massage therapy schools must show proof that the school adopts and discloses to the students a complaint process substantially similar to the one outlined in 17 CAR § 52-110.

(c) Purchase of an existing massage therapy school.

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(1)(A) Any person, ~~firm, or corporation~~ or entity seeking to purchase an existing massage therapy school or postsecondary massage therapy school shall submit an application with required documents to the Department of Health's Massage Therapy Section at least thirty (30) days prior to purchase for preapproval from the department.

(B) Each ~~application packet submitted to the department~~ shall include:

(i) An application to reflect the change of ~~ownership~~ a principal's interest in the school;

(ii) Valid background checks for each new ~~owner~~ principal;

(iii) A copy of ~~documentation evidencing~~ the legal change of ~~ownership document~~ principal's interest in the school;

(iv) A copy of each new ~~owner's~~ principal's government-issued photo identification;

(v) A signed and notarized statement from each ~~owner~~ principal selling their interest in the massage therapy school or postsecondary massage therapy school transferring the massage therapy school or postsecondary massage therapy school license to the new ~~owner~~ principal or ~~owners~~ principals;

(vi) A statement by the new ~~principal owner~~ or ~~principals owners~~ reflecting any changes that will be made in any of the following:

(a) The location of the massage therapy school or postsecondary massage therapy school, type of structure, or the detailed floor plan in compliance with subsection (e) of this section;

(b) List of proposed equipment used for instructional purposes in compliance with subsection (e) of this section;

(c) Curriculum, including:

(1) Name and edition of textbooks; and

(2) Any other material that will be used for instructional purposes;

(d) List of instructors and their qualifications;

(e) Any forms to be used in the massage therapy school or postsecondary massage therapy school such as contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.; and

(f)(1) The massage therapy school or postsecondary massage therapy school's handbook including refund policy.

(2) Postsecondary massage therapy schools must also include a disciplinary policy; and

(vii) The required nonrefundable registration fee (one hundred dollars (\$100)).

(2)(A) After satisfactory completion of requirements for transfer, the massage therapy school or postsecondary massage therapy school shall be subject to department inspection before the transfer of ownership can be approved.

(B) A department staff member will perform an inspection of the massage therapy school or postsecondary massage therapy school premises with required forms completed and the results of such inspection will be returned to the department for approval and/or adjustment recommendations.

(C) Facilities that do not pass the first inspection will be reinspected within thirty (30) days of notification of corrections.

(d) Relocation of a massage therapy school or postsecondary massage therapy school.

(1) Any person, ~~firm, or corporation or entity~~ seeking to relocate a massage therapy school or postsecondary massage therapy school shall:

(A) Submit an application with required forms to the massage therapy section; and

(B) Receive preapproval from the department.

(2) The application shall include:

(A) Completed application:

(i) Provided by the department; and

(ii) Available on the department's website at

www.healtharkansas.com;

(B) A description of the location of your school, type of structure, and a detailed floor plan in compliance with subsection (e) of this section;

(C) List of proposed equipment used for instructional purposes in compliance with subsection (e) of this section;

(D) List of instructors and their qualifications;

(E) Samples of all forms to be used in the school such as contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.;

(F)(i) A copy of your school's handbook including refund policy.

(ii) Postsecondary schools must also include a disciplinary policy;

(G) Valid background checks for each ~~owner~~principal; and

(H) The required nonrefundable registration fee (four hundred twenty-five dollars (\$425)).

(3) A person or entity shall not relocate a massage therapy school without first having obtained a certificate of massage therapy school licensure issued by the department.

(4)(A) Any massage therapy school wishing to teach both secondary and postsecondary students shall obtain both a license for a:

(i) Massage therapy school; and

(ii) Postsecondary massage therapy school.

(B) The school shall also provide a procedure by which it will ensure that only students with a high school diploma or the equivalent:

(i) Are enrolled in the postsecondary school; and

(ii) Receive Title IV funds.

(5)(A) After satisfactory completion of initial requirements, schools are required to undergo department inspection before they can be licensed.

(B) A department staff member will perform an inspection of the school premises with required forms completed and the results of such inspection will be returned to the department for approval and/or adjustment recommendations.

(C) Facilities that do not pass the first inspection will be reinspected within thirty (30) days of notification of corrections.

(6) Postsecondary massage therapy schools must show proof that the school adopts and discloses to the students a complaint process substantially similar to the one outlined in 17 CAR § 52-110.

(e) Facility and sanitary requirements.

(1)(A) School facilities must:

(i) Be kept clean, sanitary, and in good repair at all times;

(ii)(a) Clean equipment and tools thoroughly on a routine basis and sanitize them with a disinfecting solution that is:

(1) Bactericidal — capable of destroying bacteria;

(2) Virucidal — capable of destroying viruses; and

(3) Fungicidal — capable of destroying fungi.

(b) Disinfectants must be used according to manufacturer labels to be safe and effective.

(c) Contact time listed on the manufacturer's label must be adhered to at all times to effectively destroy pathogens;

(iii) Have clinical workspace allowing for unrestricted movement around massage tables;

(iv) Have adequately ventilated workspace to keep them free of excessive:

(a) Vapors;

(b) Odors; and

(c) Fumes;

(v) Be heated and air-conditioned with adjustable temperature control;

(vi) Have adequate space to accommodate all students during the theory and clinical instructional hours for which they are enrolled;

(vii) Have an instructional classroom that is:

(a) Clean;

(b) In good repair; and

(c) Well-ventilated;

- (viii) Have a minimum of one (1) massage table for every three (3) students in class;
- (ix)(a) Have an accessible handwashing sink supplied with:
 - (1) Hot and cold running water;
 - (2) A soap dispenser; and
 - (3) A sanitary hand-drying method.(b) Common towels are not allowed;
- (x)(a) Have accessible restrooms that are clean and sanitary and in working order at all times.
 - (b) Restrooms shall not be used for storage of products used for servicing clients;
- (xi)(a) Have trash containers that:
 - (1) Are durable and easily cleanable; and
 - (2) Do not leak.(b) Trash containers must be emptied daily to prevent:
 - (1) An accumulation of garbage; and
 - (2) The development of odors;
- (xii) Dispose of all one-time-use towels, sheets, and protective coverings that cannot be disinfected immediately after use;
- (xiii)(a) Have furniture, equipment, and other fixtures that are:
 - (1) Made of washable material; and
 - (2) Kept clean and in good repair.(b) Electrical equipment shall be kept clean and in good repair at all times;
- (xiv) Launder sheets and towels to disinfect after each use on client;
- (xv) Have a separate receptacle for soiled linens;
- (xvi) Keep clean linens:
 - (a) Separate from public; and/or
 - (b) Covered in public use areas; and

(xvii) Keep oils, lotions, or any products that are used on the public in containers that are labeled and sanitary.

(B)(i) Anyone who has an infectious, contagious, or communicable disease that may be spread by airborne, droplet, contact, or indirect methods and who is in contact with the public must not practice until all risk of disease transmission is cleared.

(ii) Any employee or student with such a disease must be immediately relieved from duty until all risk of disease transmission is cleared.

(2) Schools shall have an identifiable massage therapy instructor who provides oversight and supervision under which other master massage therapists or massage therapy instructors can teach.

(3) Schools must:

(A) Adhere to all state and local ordinances; and

(B) Provide a copy of the fire inspection, occupancy license, and/or business permits where required by law and furnish copies to the department upon request.

(4) Schools must:

(A) Inform students regarding emergency evacuation procedures; and

(B) Clearly mark or post all routes and exits.

(f) Curriculum.

(1)(A) Schools have the discretion to grant CLEP credit for any previously obtained, successfully passed, and officially documented classroom education relevant to massage therapy.

(B) Such credit may be granted at the rate of three (3) college credits to equal no more than forty (40) clock hours.

(C) Schools will maintain a file copy of all such examinations for department inspection.

(2)(A) Schools must follow the curriculum outlined in Arkansas Code § 17-86-306(e).

(B) The curriculum:

(i) Must be presented to and approved by the department; and

(ii) Will make further applications to the department for any substantial modifications in the subjects, contents, or instructional methods offered to the students.

(3) Schools must provide no fewer than three (3) clock hours of HIV/AIDS and other basic communicable disease education within their twenty-five (25) hours of hygiene and infectious control as required by Arkansas Code § 17-86-306(e)(4).

(4) Schools that teach massage with students wearing swimsuits or underwear must instruct students at some time during their schooling on how to work on unclothed clients, with a minimum of twenty (20) hours of classroom or student clinic massages on unclothed clients unless there is a documented religious or medical objection made by the student.

(5) Schools may not include more than five percent (5%) of their total school curriculum of instruction with:

- (A) Reiki;
- (B) Polarity; or
- (C) Other energy-based modalities.

(g) Instruction methods.

(1)(A) Each specified course of study must be outlined with a syllabus that includes written learning objectives.

(B) Instructors will:

- (i) Follow daily lesson plans; and
- (ii) Provide active, organized learning sessions and must be made

available for inspection.

(2) Recognized methods of instruction such as but not limited to lecture, demonstration, and supervised hands-on practice will be utilized to ensure reasonable learning objectives and outcomes.

(3)(A) All classes must:

- (i) Be instructed and supervised by qualified and approved personnel;

and

(ii) Consist of no fewer than fifty (50) minutes of active teaching per credit hour.

(B) In-school independent study time is limited to no more than five percent (5%) of the total hours of a program.

(4) "Active teaching" means qualified school personnel offering:

(A) Organized lecture;

(B) Activities;

(C) Demonstration; and/or

(D) Direct and immediate supervision of students during hands-on practice.

(5) Written and practical evaluations shall be conducted with all grades:

(A) Recorded; and

(B) Available for inspection.

(h) **Instructor qualifications.**

(1)(A) All persons who instruct any portion of a curriculum within an approved massage therapy school must be a licensed:

(i) Master massage therapist; or

(ii) Massage therapy instructor.

(B) Each school must have on file such diplomas, transcripts, certifications, resumes, and/or other verifiable documents that attest to the person's qualifications and technical expertise.

(C) Each school must be able to supply the department with a list of instructors who have taught or who will be teaching at that school along with documentation of:

(i) Their qualifications; and

(ii) The subjects they have instructed or will instruct.

(2)(A) For the purposes of qualifying instructors for subjects required by Arkansas Code § 17-86-306, the following definitions will be used:

(i) "Academic subjects" include:

(a) Anatomy;

- (b) Physiology;
- (c) Pathology; and
- (d) Related human sciences;

(ii) "Nontechnical subjects" include massage therapy:

- (a) Laws;
- (b) Ethics; and
- (c) Business management; and

(iii) "Technical subjects" are those defined as massage therapy techniques, hydrotherapy, heliotherapy, electrotherapy, and any hands-on training that may occur under various related subjects.

(B) Persons to instruct technical subjects must:

(i) Be qualified and hold a current license as a:

- (a) Master massage therapist; or
- (b) Massage therapy instructor; and

(ii) Have a minimum of two (2) consecutive years of active experience in the practice of massage therapy.

(C) Persons to instruct academic subjects must:

(i) Be qualified and hold a current license as a master massage therapist or massage therapy instructor as defined in Arkansas Code § 17-86-102(6)(A);
or

(ii) Hold a minimum of a bachelor's degree plus two (2) years' practical experience in a subject directly related to that being taught.

(D) Persons to instruct nontechnical subjects must:

(i) Be qualified and hold a current license as a master massage therapist or massage therapy instructor as defined in Arkansas Code § 17-86-102(6)(A);
or

(ii) Hold a minimum of a two-year associate's degree and two (2) years' practical experience in a subject directly related to that being taught.

(3)(A) Schools may invite guest instructors to teach within their program without department preapproval if such guest instructor instructs on no more than sixteen (16) hours per school curriculum.

(B) Subdivisions (h)(1) and (h)(2) of this section show how guest instructors shall be qualified.

(C)(i) Schools may utilize guest instructors to provide no more than a total of twenty-five (25) hours per school curriculum.

(ii) A record of all hours of instruction provided in this manner must be:

(a) Maintained by the school; and

(b) Made available for department inspection upon request.

(D) Schools must keep a log of guest instructors.

(i) Student enrollment requirements for schools and apprenticeships.

(1) Completed learning permit application.

(2) Furnish to the department satisfactory proof that the applicant is eighteen (18) years of age or older.

(3) Make oath that the applicant has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony listed under Arkansas Code § 17-3-102 or constitute the offense of prostitution, either in this state or another state, and submit a signed authorization to investigate and have information released to the department.

(4) Provide a state and federal criminal background check to the department as provided in Arkansas Code § 17-86-104.

(5) Present the following issued in the same name as the applicant or licensee:

(A) A legible copy of a valid photo identification card or driver's license;

and

(B) A legible copy of a Social Security card.

(6) Request the massage therapy school or massage therapy apprenticeship program in which the applicant is seeking to enroll to send a copy of the enrollment contract or equivalent confirmation of enrollment to the department.

(7) Proof of physical examination by a medical doctor documenting that the student poses no health risk to give and receive massage.

(8) Pay the specified fees as provided in Arkansas Code § 17-86-303, which shall accompany a completed notarized application to the department.

(j) Certification of Training form

(1)(A) The school shall certify the training in accordance with the required curriculum for examination and licensure.

(B) The requirement for the school to certify the training does not prohibit the school from suspending a student for disciplinary reasons.

(C) Grounds for suspension by the school shall be determined by the school principal or principals, subject to the following requirements:

(i) Grounds for disciplinary action by the school shall be set forth in the school catalog;

(ii) Only students who have been placed on probation, as a result of a previous infraction of the school rules or policies, may be suspended from school; and

(ii) Permissible duration of any probation or suspension shall be set forth in the school catalog.

(2) Certification of Training must be filed with the department within forty-five (45) calendar days immediately following termination of student (last day of attendance).

(j) Student clinical.

(1) The purpose of any student clinical is to provide advancing students enrolled in approved schools an opportunity to gain practical experience working with the public in a supervised setting.

(2) The status of the practitioner must be made clearly evident to the recipient of student massage.

(3) Any student to be considered eligible for clinical practice must have completed the following requirements:

(A) One hundred (100) hours of anatomy, physiology, pathology, and contraindications for massage therapy;

- (B) One hundred (100) hours of technical training;
- (C) All portions of the school's curriculum pertaining to:
 - (i) Personal hygiene;
 - (ii) Sanitation;
 - (iii) Ethics; and
 - (iv) Professional standards; and
- (D) Provide proof of student liability insurance.

(4) All clinical massages by a student must be documented and performed under the supervision of a qualified technical instructor who has access to the treatment area at all times.

(5) No more than fifty (50) hours of student massage may be:

- (A) Attained in this manner; and
- (B) Applied to meet the requirements for licensure.

(6)(A) Students may not solicit payment in any form during clinical practice either:

- (i) On school premises;
- (ii) At chosen locations for field trips; or
- (iii) While practicing away from school facilities and direction.

(B) This includes:

- (i) Barters;
- (ii) Donations; and/or
- (iii) Trades.

(C) The student may accept gratuities during supervised clinical massage.

(7) No student may leave classroom instruction to perform student-client massages.

(k) **Student records.**

(1) All student records must be maintained for a period of not fewer than five (5) years, to include:

- (A) Copy of signed learning permit application;
- (B) Written and practical evaluation reports that include subject matter;

- (C) Copies of completed examinations;
- (D) Daily attendance records of actual theory class time;
- (E) Daily attendance records for hands-on training that should include:
 - (i) Name and location at which hours were gained;
 - (ii) How many hours per day; and
 - (iii) How many clients and what services were performed; and
- (F) Proof of CPR training for all students at the time of their graduation.

(2) In the event of school closure or change of school ownership, a copy of all current student records and all student records maintained for the previous five (5) years must be submitted to the department.

(I) **Miscellaneous.**

(1) Each school operated within the state shall be inspected during regular operations by the department at least one (1) time each year.

(2)(A) Any school desiring to move the location of its license must apply for relocation and submit all required documents to the department at least thirty (30) days prior to any location change.

(B) The department will inspect the school's new location when all requirements for relocating a school have been met.

(3) Schools providing offsite student massages shall be allowed only under the direct supervision of a:

- (A) Massage therapy instructor; or
- (B) Master massage therapist.

17 CAR § 52-119. Conduct and ethics.

(a) It is the responsibility of the licensed massage therapist or therapists to create and maintain a safe environment during a massage session.

(b) It is the therapist's responsibility to inform clients of their rights as recipients of massage therapy, including but not limited to the following:

- (1) Their right to terminate the treatment at any time; and
- (2) Their right to modify the treatment at any time.

(c) Therapists shall ensure and safeguard the following rights of the clients:

(1) Obtain necessary information from the client to be held in confidence regarding pertinent health history in order to ensure safe treatment at all times;

(2) Stay within the scope of practice of massage therapy, performing only techniques for which they are appropriately and sufficiently trained; and

(3) Refrain under all circumstances from initiating or engaging in any sexual conversation, sexual conduct, sexual behavior, or sexual activities involving a client, even if the client attempts to sexualize the relationship.

(d) The licensed massage therapist adheres to the following practices:

(1) Keeps licensure current;

(2) Conducts all aspects of their massage practice in a legal, ethical, and responsible way;

(3) Pursuant to Acts 2023, No. 531, a licensed massage therapist is a mandated reporter under Arkansas Code § 12-18-402, and, if the licensed massage therapist has reasonable cause to suspect child maltreatment, shall notify the Child Abuse Hotline; and

(4) Reports to the Department of Health in writing and under oath any knowledge of violations of:

(A) The Massage Therapy Act, Arkansas Code § 17-86-101 et seq., or

(B) This part.

(e) Providing false or misleading statements or documentation to the department as part of application for registration or licensure, or any investigation, may result in disciplinary action, including:

(1) Rejection of the application; or

(2) Suspension or revocation of licensure.

(f) Violations of any provision under this part may result in disciplinary action by the State Board of Health up to and including revocation of licensure in accordance with the procedures adopted in 17 CAR §§ 52-101, 52-103 – 52-112.

17 CAR § 52-120. Miscellaneous guidelines.

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(a) Massage therapy must be provided in a way that ensures the safety, comfort, and privacy of the client and therapist.

(b) Clients receiving a massage must be draped or dressed to ensure that the pubic area and genitals are not exposed.

(c)(1) A licensee who engages in the practice of massage therapy of the anus and genitalia shall have his or her license revoked for a period of three (3) years.

(2) The licensee will receive a hearing in accordance with the process outlined in:

(A) 17 CAR § 52-111; and

(B) The Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(d) The breast of a client may be treated under the following circumstances:

(1) The massage of the breasts is for therapeutic and medical purposes including without limitation:

(A) The reduction of scar tissue following a surgery on the breast;

(B) Release of myofascial binding; or

(C) Improving lymphatic flow;

(2) The massage therapist has received at least forty-eight (48) hours of continuing education credits in:

(A) Lymphatic massage;

(B) Myofascial massage; or

(C) Oncology massage;

(3) There is a valid request from the client, the valid prescription is presented, or there is a referral from a qualified medical professional;

(4) A client's breast may not be exposed without first having obtained prior written, signed consent;

(5) A written description and explanation is given to the client before the massage begins and permission granted again before uncovering the breast; and

(6) Treatments must be noted on the client's assessment form.

(e) The MTTAC shall revoke the license for a period of not less than three (3) years of a licensee who participates in sexual misconduct engages in the practice of massage therapy of the breast tissue without following the process outlined in subsection (d) of this section, above.

(1) A completed application for reinstatement of a previously revoked license shall be submitted for review and approval by the MTTAC.

(f) Requirements for practicing cupping therapy:

(1) The massage therapist must have a minimum of six (6) hours of in-class specialized training in cupping therapy that shall include:

- (A) Indications;
- (B) Contraindications;
- (C) Hygiene; and
- (D) Hands-on techniques.

(2) When the six (6) hours of specialized training is provided as part of the curriculum in a massage therapy school or postsecondary massage therapy school:

- (A) The transcript shall indicate course hours in cupping therapy; or
- (B) A certificate of successful completion shall be issued to the student.

17 CAR § 52-121. Interstate Massage Compact, pursuant to Acts 2025, No. 267.

(a) This section shall not go into effect until the effective date of the Interstate Massage Compact, as provided by Acts 2025, No. 267.

(b) The practice of massage therapy under a multistate license granted under this part shall subject the licensee to the jurisdiction of the licensing authority of the state in which the massage therapy services are provided.

(c) Qualification for licensee who is a resident of Arkansas.

(1) Any licensee residing in Arkansas who has not been specifically issued a multistate license is deemed to hold a single-state license.

(2) An applicant for a multistate license shall submit to the Department of Health:

(A) A completed application on a form published by the department;

(B) Documentation of completion of at least six hundred twenty-five (625) hours of massage therapy education at a licensed massage therapy school or apprenticeship program;

(C) Passing results of a national licensing examination, as provided in 17 CAR §52-114(b);

(D) A completed background check, in accordance with 17 CAR §52-113, evidencing the applicant has not been convicted or found guilty, or entered into an agreed disposition, of a:

(i) Felony offense under state or federal law within five (5) years prior to the date of his or her application;

(ii) Misdemeanor offense under state or federal law related to the practice of massage therapy within two (2) years prior to the date of his or her application; or

(iii) Felony or misdemeanor offense under state or federal law related to:

(a) Kidnapping;

(b) Human trafficking;

(c) Human smuggling; or

(d) Sexual battery, sexual assault, or any related offense.

(E) A signed statement the applicant has not previously held a massage therapy license in any state or territory of the United States which was revoked by, or surrendered in lieu of discipline, to the governing licensing authority; and

(F) A signed statement the applicant has no history of any adverse on any occupational or professional license within two (2) years prior to the date of his or her application.

(3) A multistate license shall expire on the same date with the same effect as the applicant's home state license.

(4) A multistate license issued to a resident of the state of Arkansas shall be subject to the same continuing education requirements applicable to a single-state license in Arkansas.

(d) (1) A licensee of a remote member state possessing a multistate license shall be authorized to practice massage therapy in the State of Arkansas, subject to the provisions of this part and Acts 2025, No. 267.

(2) A licensee of a remote member state shall notify the department, on a form provided by the department, of his or her intent to practice massage therapy in the State of Arkansas.

(e) The department shall have the authority to:

(1) Take adverse actions against a licensee's authorization to practice in this state;

(2) Issue subpoenas, conduct investigations, and hold hearings regarding a multistate licensee; and

(3) Participate in joint investigations with other member states.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency’s statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



Sarah Huckabee Sanders
GOVERNOR

Renee Mallory, RN, BSN
SECRETARY OF HEALTH

Jennifer Dillaha, MD
DIRECTOR

To: Members, Arkansas State Board of Health

From: Kelli Kersey
Cosmetology, Massage Therapy and Body Art
Division of Health Protection

Date: July 10, 2025

Subject: To request approval by the State Board of Health of the following proposed amendments to the Rules for Massage Therapy.

Authority: Ark. Code §17-86-101, et seq.

Relevant Acts: Acts 2025, Nos. 267 and 484.

- Pursuant to Acts 2025. No. 629, Language added to 17 CAR § 52-102 Definitions; 17 CAR § 52-105 Enforcement; 17 CAR § 52-106 Access for enforcement of rules; 17 CAR § 52-107 Authorization by the Department of Health; 17 CAR § 52-109 Inspections; 17 CAR § 52-110 Complaints; 17 CAR § 52-111 Hearings; 17 CAR § 52-113 Policies and Procedures (e)(1), (f) and (h)(3)(B); 17 CAR § 52-117 Massage Therapy Establishments (a), (b), (c), (d), (e), (f), (g), (h), and (i); 17 CAR § 52-118 (b) Application for Massage Therapy school. (1), (2) (H), and (3); 17 CAR § 52-118 (c) Purchase of an existing massage therapy school. (1)(A), (B)(i), (ii), (iii), (iv), (v), (vi), 17 CAR § 52-118 (d) Relocation of a massage therapy school or postsecondary massage therapy school. (1), (2) (G), and (3).
- Pursuant to Acts 2025, No. 484, all establishments and schools shall post in a conspicuous place near the entrance of the establishment or school and in restrooms, a poster language added to 17 CAR § 52-108. Consumer information.
- Pursuant to Acts 2025, No. 170 Language added to 17 CAR § 54-311. Responsibility of body art institution. (a) (3)
- Industry Request language added to 17 CAR § 52-118 (j) Certification of Training Form
- Clarification to Massage Therapy Statute § 17-86-311 language added to 17 CAR § 52-120 (e) and (1)
- Pursuant to Acts 2025, No. 267 language added to 17 CAR § 52-121

Arkansas Department of Health
4815 West Markham St. · Little Rock, AR 72205

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NOTICE OF PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH) is accepting public comments on the Rules for Massage Therapy from January 31, 2026, to March 2, 2026. The comment period is provided to allow interested parties and the public to provide any comments. The proposed rule revision with a summary of changes can be viewed online at <https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules> or you may request a copy from our office at 501-682-2168.

The Arkansas Department of Health, Massage Therapy will hold a public hearing on March 2, 2026, at 9:00 a.m. in the auditorium of the Health Department Building located at 4815 W. Markham, Little Rock, AR, 72205, to allow interested persons to comment on proposed Rules.

Comments on the proposed changes can also be mailed to Arkansas Department of Health, Comments/Slot 8, 4815 West Markham, Little Rock Arkansas, 72205, or emailed to kelli.kersey@arkansas.gov