

Report on the  
**Board of Massage Therapy**  
Montgomery, Alabama



**Department of  
Examiners of Public Accounts**

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*Ronald L. Jones, Chief Examiner*



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May 16, 2018

Representative Howard Sanderford  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Board of Massage Therapy in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Board of Massage Therapy, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones  
Chief Examiner

**Examiner**  
Shundra Brown



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# **PROFILE**

## **Purpose/Authority**

The Board of Massage Therapy was created by Act. No. 661, Acts of Alabama 1996 as a professional therapeutic health service to preserve and protect individual life and health, to promote the public interest and welfare by establishing licensing requirements and assuring public safety. The Board licenses massage therapists, massage therapy establishments, schools, and instructors. The Board investigates complaints, inspects massage therapy establishments and massage therapy schools. The Board operates under the authority of the *Code of Alabama 1975*, Sections 34-43-1 through 34-43-21.

The following legislative Act was passed since the last sunset review of this agency:

**Act 383, Acts of Alabama 2017** - Amended Section 34-43-3 of the *Code of Alabama 1975*, relating to the definition of Therapeutic Massage and related touch therapy modalities to exclude midwifery from the Massage therapy term. The Act is included in the codification presented in the appendix of this report.

<b><u>Characteristics</u></b>	
<b>Members and Selection</b>	Seven members appointed by the Governor, subject to confirmation by the Senate.  <i>Code of Alabama 1975</i> , Section 34-43-6(b)
<b>Term</b>	Four year staggered terms, each expiring on September 30. Members shall serve no more than two full terms.  <i>Code of Alabama 1975</i> , Section 34-43-6(b) & (c)
<b>Qualifications</b>	<ul style="list-style-type: none"><li>• United States Citizen</li><li>• Alabama resident at least two years prior to appointment</li><li>• High School graduate or equivalent</li><li>• Five must be licensees of the Board</li><li>• Two public members may not be, nor have ever been a licensee</li></ul> <p>Each Board member shall be selected upon personal merit and qualifications, not per membership or affiliation with an association.</p> <i>Code of Alabama 1975</i> , Section 34-43-6(b)
<b>Racial Representation</b>	No statutory requirement. Two black members currently serving.

<b>Geographical Representation</b>	<p>Members shall be appointed so that not more than one member from each United States Congressional District is appointed to serve at the same time.</p> <p><i>Code of Alabama 1975, Section 34-43-6(b)</i></p>
<b>Consumer Representation</b>	<p>Two members shall be public members who shall not be licensed, nor have been licensed in the past, and shall not have any direct financial interest in the massage therapy profession.</p> <p>One consumer member currently serving.</p> <p><i>Code of Alabama 1975, Section 34-43-6(b)</i></p>
<b>Other Representation</b>	<p>Membership shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.</p> <p><i>Code of Alabama 1975, Section 34-43-6(b)</i></p>
<b>Compensation</b>	<p>Board members shall not receive compensation for their services, but shall receive the same per diem and allowance as provided to state employees for each day the board meets and conducts business.</p> <p><i>Code of Alabama 1975, Section 34-43-6(g)</i></p>
<b><u>Operations</u></b>	
<b>Administrator</b>	<p>Keith Warren, Executive Director</p> <p>The Board contracts with Warren &amp; Company Inc. for management services and office space. The current annual contract amount is \$132,000.</p> <p><i>Code of Alabama 1975, Section 34-43-6(i)</i></p>
<b>Location</b>	<p>2777 Zelda Road  Montgomery, AL 36106  Office hours: M-F 8:30 – 4:30</p>

<b>Examinations</b>	<p>The National Certification Board of Therapeutic Massage &amp; Bodywork (NCBTMB) and the Federation of State Massage Therapy Boards (MBLEX) contracts with Pearson VUE to develop, administer and deliver the exams.</p> <p>Computerized exams are available six days a week at Pearson Vue Test Centers located in Montgomery, Birmingham, and Dothan. Exam fees are paid directly to NCBTMB and MBLEX.</p> <table border="1" data-bbox="537 499 1317 1146"> <thead> <tr> <th></th> <th>Pass</th> <th>Fail</th> <th>Total</th> <th>Pass%</th> </tr> </thead> <tbody> <tr> <td><b>2014</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>First-Attempt</td> <td>83</td> <td>49</td> <td>132</td> <td>63%</td> </tr> <tr> <td>Re-Exam</td> <td>5</td> <td>10</td> <td>15</td> <td>33%</td> </tr> <tr> <td>Total</td> <td>88</td> <td>59</td> <td>147</td> <td>60%</td> </tr> <tr> <td><b>2015</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>First-Attempt</td> <td>141</td> <td>67</td> <td>208</td> <td>68%</td> </tr> <tr> <td>Re-Exam</td> <td>15</td> <td>33</td> <td>48</td> <td>31%</td> </tr> <tr> <td>Total</td> <td>156</td> <td>100</td> <td>256</td> <td>61%</td> </tr> <tr> <td><b>2016</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>First-Attempt</td> <td>154</td> <td>67</td> <td>221</td> <td>70%</td> </tr> <tr> <td>Re-Exam</td> <td>26</td> <td>49</td> <td>75</td> <td>35%</td> </tr> <tr> <td>Total</td> <td>180</td> <td>116</td> <td>296</td> <td>61%</td> </tr> <tr> <td><b>2017</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>First-Attempt</td> <td>118</td> <td>51</td> <td>169</td> <td>70%</td> </tr> <tr> <td>Re-Exam</td> <td>14</td> <td>34</td> <td>48</td> <td>29%</td> </tr> <tr> <td>Total</td> <td>132</td> <td>85</td> <td>217</td> <td>61%</td> </tr> </tbody> </table> <p>Examination statistics for Alabama schools are included in the Appendix.</p> <p><i>Code of Alabama 1975</i>, Section 34-43-7(a)(1)</p> <p><i>Source:</i> Executive Director</p>		Pass	Fail	Total	Pass%	<b>2014</b>					First-Attempt	83	49	132	63%	Re-Exam	5	10	15	33%	Total	88	59	147	60%	<b>2015</b>					First-Attempt	141	67	208	68%	Re-Exam	15	33	48	31%	Total	156	100	256	61%	<b>2016</b>					First-Attempt	154	67	221	70%	Re-Exam	26	49	75	35%	Total	180	116	296	61%	<b>2017</b>					First-Attempt	118	51	169	70%	Re-Exam	14	34	48	29%	Total	132	85	217	61%
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<b>Reciprocity</b>	<p>The Board may license an applicant if the applicant is licensed or registered in another state, which, in the opinion of the Board, has standards of practice or licensure that are equal to or stricter than the requirements imposed by this chapter.</p> <p>Currently, the Board does not have a formal reciprocity agreement with any state.</p> <p><b>Code of Alabama 1975</b>, Section 34-43-9(b)  <b>Source:</b> Executive Director</p>
<b>Renewals</b>	<p>Massage therapist and establishment licenses are renewed biennially, on or before the anniversary date. Any license not renewed biennially on or before the anniversary date shall expire.</p> <p><b>Code of Alabama 1975</b>, Section 34-43-13(a)</p> <p>Massage therapy schools register annually.</p> <p><b>Code of Alabama 1975</b>, Section 34-43-20(a)(3)</p> <p>Massage therapy instructors register once. Every instructor teaching course work titled massage therapy at a board approved school located in Alabama shall be licensed as a massage therapist and registered as a massage therapy instructor.</p> <p><b>Code of Alabama 1975</b>, Section 34-43-20(b)  <b>Administrative Rule</b> 532-X-3-.05(9)(b)</p> <p>Online renewals are not available.</p> <p><b>Source:</b> Executive Director</p>
<b>Continuing Education</b>	<p>Sixteen hours of continuing education is required to renew a license to be completed within the 24 months preceding the renewal date.</p> <p><b>Code of Alabama 1975</b>, Section 34-43-21(a)</p>
<b>Employees</b>	<p>The Board has no employees. The Board contracts with Warren &amp; Company Inc. for management services including an executive director.</p>
<b>Immigration</b>	<p>E-Verify – N/A, no employees  SAVE - Partially compliant – (<b>See Significant Issue 2018-01</b>)</p>
<b>Legal Counsel</b>	<p>Matt Bledsoe, Assistant Attorney General, Attorney General’s Office.</p>
<b>Subpoena Power</b>	<p>None except as provided by the Administrative Procedure Act, <b>Code of Alabama 1975</b>, Section 41-22-12 for hearings and contested cases.</p>

<b>Internet Presence</b>	<a href="http://www.almtbd.alabama.gov">http://www.almtbd.alabama.gov</a> Information available includes: <ul style="list-style-type: none"> <li>• Home</li> <li>• Board</li> <li>• Fees</li> <li>• Law &amp; Regulations</li> <li>• Licensure Requirements &amp; Search</li> <li>• Forms</li> <li>• Calendar</li> <li>• Minutes</li> <li>• Disciplinary Actions</li> <li>• Contact</li> </ul>
<b>Attended Board Member Training</b>	No one attended the last Board member training held in 2014.
<b><u>Financial</u></b>	
<b>Source of Funds</b>	Licensing fees, fines and penalties.
<b>State Treasury</b>	Yes - Special Revenue Fund 0920  <i>Code of Alabama 1975</i> , Section 34-43-14(c)
<b>Required Distributions</b>	No required distributions.
<b>Unused Funds</b>	The Board retains unused funds at fiscal year-end.

## **SIGNIFICANT ISSUES**

**Significant Issue 2018-01 -The Board has not completed enrollment in the Federal, Systematic Alien Verification for Entitlements (SAVE) program used to verify documentation presented by non-citizen applicants.** The Board is requiring applicants for licensure to sign a declaratory statement and provide proof of citizenship/legal alien status on applications. According to the Board’s Executive Director the Board has finalized the Memorandum of Agreement (MOA) for the SAVE program, but has yet to receive the signed MOA from Homeland Security.

The *Code of Alabama 1975*, Section 34-43-9(c) of the Board’s licensing law requires “each applicant for licensure shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government. The *Code of Alabama 1975*, Section 31-13-7(i) states, “The verification that an alien seeking state or local public benefits is an alien lawfully present in the United States shall be made through the Systematic Alien Verification for Entitlements (SAVE) program, operated by the United States Department of Homeland Security.” Section 31-13-29(c)(1) of the Alabama Immigration statute requires that, “Any person entering into a public records transaction or attempting to enter into a public records transaction with this state or a political subdivision of this state shall be required to demonstrate his or her United States citizenship, or if he or she is an alien, his or her lawful presence in the United States to the person conducting the business transaction on behalf of this state or a political subdivision of this state.” Section 31-13- 29(g) lists documents to be used to verify citizenship. Section 31-13-3(10) provides that “a person shall be regarded as an alien unlawfully present in the United States only if the person's unlawful immigration status has been verified by the federal government pursuant to 8 U.S.C. § 1373(c).” and then lists documents to be used to verify lawful presence.

**Board’s Response** – The Board is currently working with the SAVE program to finalize the registration process and this should be complete by the Sunset Hearing scheduled for May 2018.

## **STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES**

**Significant Issue 2014-01 – Board membership is not composed as required by the Board’s enabling legislation.** Since 2011, the Board’s membership should have experienced a change to membership representative of each congressional district. Currently, there are 2 members serving from district 2 and district 3 (including 2 who continue to serve terms which ended in 2011) while no one is appointed from districts 1 or 4.

**Current Status 2018** - Currently, there are two members serving from district 2 and district 3 (including 2 who continue to serve terms although the terms expired in 2011). There is no representation from districts 1, 4 or 5.

**Board’s Response** – Act #2011-069 (Sunset Legislation) amended the structure of the Board for each member to be appointed to represent each Congressional District. The Board is comprised of five massage therapists and two consumers. With this change, the Board, Executive Director and

Governor's Appointment Secretary(s) have struggled with obtaining candidates that fulfill the Congressional District requirement, particularly with two consumer positions. If this requirement were removed, the Board could recruit candidates that could fulfill the geographical requirements needed to adequately serve the entire state. Massage Therapy is a profession that has grown tremendously but still mainly exists in heavily populated areas across the state. The current members of the Board have been extremely dedicated in continuing to serve while we try to remedy this issue to the best of all involved.

**Significant Issue 2011-02 – The Board did not post vacancies in its membership on the Secretary of State's website as required by law.** The *Code of Alabama 1975*, Section 36-14-17 requires the chair of an existing board to notify the Secretary of State by electronic means of a vacancy scheduled to occur on the Board as a result of the expiration of a term at least 45 days before the vacancy occurs. The terms of four board members expired September 30, 2011. The Secretary of State had not been notified of the vacancies as of June 20, 2012.

**Current Status 2015 -** Vacancies were posted but not within the 45 days as required by law. The terms of three board members expired on 09/30/11 and the term of one board member expired on 09/30/13. The Board did not notify the Secretary of State until December 23, 2013.

**Current Status 2018 -** Vacancies were posted but not within the 45 days as required by law. The terms of three board members expired on 09/30/17. The Board did not notify the Secretary of State until October 16, 2017.

**Board's Response –** The staff continues to work on this issue to ensure that all information is correct and posted in a timely manner. New notifications are now in place as reminders to eliminate this finding.

**Prior Finding 2007-01 – Social Security numbers were not on file for licensed massage therapy schools for our examinations performed for the two-year periods ended September 30, 2007 and September 30, 2009. A review of the Board by the Sunset Committee of the Legislature during 2010 revealed that this condition continued.**

Social Security numbers are required to be obtained from applicants for licensure by the *Code of Alabama 1975*, Section 30-3-194, which states, "(a) Any agency charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to drive a private or commercial motor vehicle or to engage in a profession, occupation, or recreational, sporting, or commercial activity shall require all applicants for issuance or renewal of license, certificate, permit, or other authorization to provide the applicant's Social Security number on the application and related records maintained by the agency." Act 2012-362 of the Alabama Legislature removed the requirement to obtain the Social Security number at each renewal but retained the requirement to obtain and keep a record of the number in its records.

Attorney General's Opinion 2004-022 extends this requirement to the individual or individuals in a corporation, partnership, or limited liability company required to make applications for a license.

Social Security numbers were not on file for applicants for licensure for any of the massage therapy schools.

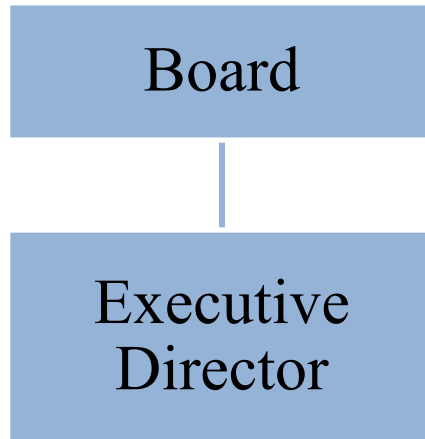
**Current Status 2013** - While reviewing the massage therapy school's files, I did not locate any documentation pertaining to the resolution of this continuing prior finding. As of January 17, 2014, the Board's Executive Director stated that half of fifteen licensed schools have responded with Social Security numbers.

**Current Status 2016** - While reviewing the Massage Therapy School's files, no documentation pertaining to the resolution of this continuing prior finding was found. As of October 21, 2016, the Board adopted new forms for schools and instructors, which require submission of a Social Security number.

**Current Status 2018** -As of October 21, 2016, the Board adopted new forms for schools and instructors, which require submission of a Social Security number. However, 14 of the 18 active massage therapy schools reviewed did not have a social security number on file.

**Board's Response** – The staff has obtained all updated applications with the required social security numbers of those responsible for signing on behalf of the massage therapy school. Updated forms are available on the web site but in several occasions, old forms were submitted to the Board office. This significant issue is now resolved.

## **ORGANIZATION**



## **PERSONNEL**

The Board does not have employees. The Board contracts with Warren & Company Inc. for management services and office space. Keith Warren, president of Warren & Company Inc., serves as the Board’s executive director. The current annual contract amount is \$132,000.00.

### **Legal Counsel**

Matt Bledsoe, Assistant Attorney General, Attorney General’s Office, provides legal services for the Board of Massage Therapy.

## **PERFORMANCE CHARACTERISTICS**

### **Number of Persons per Licensee in Alabama and Surrounding States**

	<b>Population (estimate)*</b>	<b>Massage Therapist</b>	<b>Establishment</b>	<b>School</b>	<b>Instructor</b>	<b>Total Licenses</b>	<b>Persons Per Licensee</b>
<b>Alabama</b>	<b>4,878,747</b>	<b>1,964</b>	<b>674</b>	<b>18</b>	<b>247</b>	<b>2,903</b>	<b>1,681</b>
Florida	20,984,400	35,995	8,017	196	N/A	44,208	475
Georgia	10,429,379	6,607	N/A	22	N/A	6,629	1,573
Mississippi	2,984,100	1,010	N/A	8	54	1,072	2,784
Tennessee	6,715,984	4,275	1,727	26	N/A	6,028	1,114

*\*Source:* U.S. Census, July 1, 2017 Population Estimates  
 N/A – Does not license.

**Operating Disbursements per Licensee (FY 2017) - \$69.86**

**Fines/Penalties as a % of Operating Receipts (Fiscal Year 2017) – 0.27%**

**Notification of Board Decisions to Amend Administrative Rules**

The Board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are also notified through the Board’s website and via email.

**Inspections**

The Board conducts inspections of massage therapy establishments and schools. Schools do not receive a pass or fail score but are required to correct the deficiencies to remain open. Establishments receive a pass or fail score and are requested to become compliant with the deficiencies within 30 days or the Board will initiate disciplinary action. The Board has a set goal to conduct a minimum of 200 inspections per year.

<b>Schedule of Establishment Inspection</b>			
<b>Calendar Year</b>	<b># Pass</b>	<b># Fail</b>	<b>Total Per Year</b>
<b>2014</b>	126	124	250
<b>2015</b>	125	81	206
<b>2016</b>	112	75	187
<b>2017</b>	155	52	207

*Source:* Executive Director

**COMPLAINT HANDLING**

The *Code of Alabama 1975*, Section 34-43-7(5) authorizes an investigation of complaints by the Board. The Board’s *Administrative Rule* 532-X-5-.01 addresses the complaint and discipline process.

<b>Initial Contact/Documentation</b>	Complaints must be written and signed on the Board’s form. Any person may file a complaint including board members. Complaint forms are available on the Board’s website. The Board acknowledges receipt of complaint by letter.
<b>Anonymous Complaints Accepted</b>	No.
<b>Investigative Process and Probable Cause Determination</b>	The complaint is reviewed by the Executive Director and then forwarded to the Board's Investigator. Once the investigation has been completed, an investigative report is submitted to the Executive Director and General Counsel.  The Executive Director and General Counsel review the investigative report to determine if probable cause exists. The Complaint Committee, comprised of the Executive Director, Investigator, General Counsel and a Board Member, review all

	documents and determines whether to offer a settlement or to schedule an administrative hearing. The Board Member chosen will recuse him/herself from voting.
<b>Negotiated Settlement</b>	Yes.
<b>Formal Hearing</b>	If the Board determines that the allegations have merit, a formal hearing is scheduled, and witnesses are contacted. The accused has the right to appear personally and to have counsel present.
<b>Notification of Resolution to the Complainant</b>	A letter is written to the complainant when the complaint has been resolved.
<i>Source:</i> Executive Director	

FY / Number Received	Schedule of Complaint Resolutions Fiscal Years 2014 through 2017					
	Year/Number Resolved					Pending
	2014	2015	2016	2017	2018	
2014/25	16	5	4	-	-	-
2015/42		25	16	1	-	-
2016/20			18	2	-	-
2017/16				11	5	-
2018/4*					4	-
*As of January 26, 2018						

*Source:* Executive Director

**Average Time to Resolve Complaints – FY 2017** – 68 days

**Disposition of Resolved Complaints**

Number of Complaints	Resolution
24	Consent Agreement and Fine
17	Complaint Unfounded
14	Came into Compliance
9	Consent and Surrender of License
9	Cease and Desist
8	Complaint Withdrawn
7	Other Prosecution
4	Letter of Concern Sent
3	Lack of Prosecution
3	No Jurisdiction
2	Lack of Cooperation from Complainant
2	Business Closed
2	Licenses Seized by Authorities
1	Under Federal Investigation
1	License Voided
1	License Denied



## **REGULATION IN CONJUNCTION WITH OTHER ENTITIES**

Although no other state agency directly regulates the practice of massage therapy, chiropractors, physical therapists and cosmetologist may perform work within the scope of their professions that would otherwise be considered to be within the scope of work licensed by the Board of Massage Therapy. The practice of chiropractors, physical therapist and cosmetology are licensed and regulated in Alabama by individual state boards.

## **FINANCIAL INFORMATION**

### **Source of funds**

The Board's operating funds consist of licensing fees, fines and penalties.

### **Fund**

The Board operates from Special Revenue Fund 0920 in the State Treasury, authorized by the *Code of Alabama 1975*, Section 34-43-14(c). Year-end balances are retained for the Board's continuous use, subject to appropriations.

### **Schedule of Fees**

<b>Fee Type/Purpose</b>	<b>Statute Authority</b>	<b>Rule</b>	<b>Amount Authorized</b>	<b>Amount Collected</b>
Examination <sup>(1)</sup>	34-43-14-(a)(1)		\$160	
Initial Massage Therapist License	34-43-14-(a)(2)	532-X-3-.06(1)(a)	\$100	\$100
Biennial Massage Therapist Renewal	34-43-14-(a)(3)	532-X-3-.06(1)(a)	\$100	\$100
Initial Application for Licensure or Re-submission of Initial Application	34-43-14-(a)(4)	532-X-3-.06(1)(b)	\$25	\$25
Initial Establishment License	34-43-14-(a)(5)	532-X-3-.06(1)(c)	\$100	\$100
Biennial Establishment License Renewal	34-43-14-(a)(6)	532-X-3-.06(1)(d)	\$50	\$50
Massage Therapy School Initial Registration	34-43-14-(a)(7)	532-X-3-.06(1)(e)	\$50	\$50
Massage Therapy School Renewal	34-43-14-(a)(8)	532-X-3-.06(1)(f)	\$10	\$10
Massage Therapy Instructor Registration <sup>(2)</sup>	34-43-14-(a)(9)	532-X-3-.06(1)(g)	\$10	\$10
Reactivate Inactive License <sup>(3)</sup>	34-43-14-(a)(10)	532-X-3-.06(1)(h)	\$75	\$75
Late Fee	34-43-14-(a)(11)	532-X-3-.06(1)(i)	\$25	\$25

<b>Fee Type/Purpose</b>	<b>Statute Authority</b>	<b>Rule</b>	<b>Amount Authorized</b>	<b>Amount Collected</b>
Verify a License	34-43-14-(a)(12)	532-X-3-.06(1)(j)	\$15	\$15
Duplicate License Certificate or Name Change on License Certificate	34-43-14-(a)(13)	532-X-3-.06(1)(k)	\$10	\$10
Roster of Alabama License Massage Therapist	34-43-14-(b)	532-X-3-.06(1)(l)	Cost Recovery	\$30
Roster of Approved Massage Therapy Schools	34-43-14-(b)	532-X-3-.06(1)(m)	Cost Recovery	\$5
Copy Fee per Page	34-43-14-(b)	532-X-3-.06(1)(n)	Cost Recovery	\$0.25
Postage and Handling	34-43-14-(b)	532-X-3-.06(1)(o)	Cost Recovery	Postage plus \$1.50
Administrative Fine(s)	34-43-15(d)(1)(a)		≤\$10,000	≤\$10,000

<sup>(1)</sup>Alabama Board of Massage Therapy does not charge or collect an examination fee.

<sup>(2)</sup>One-time fee – does not require a renewal

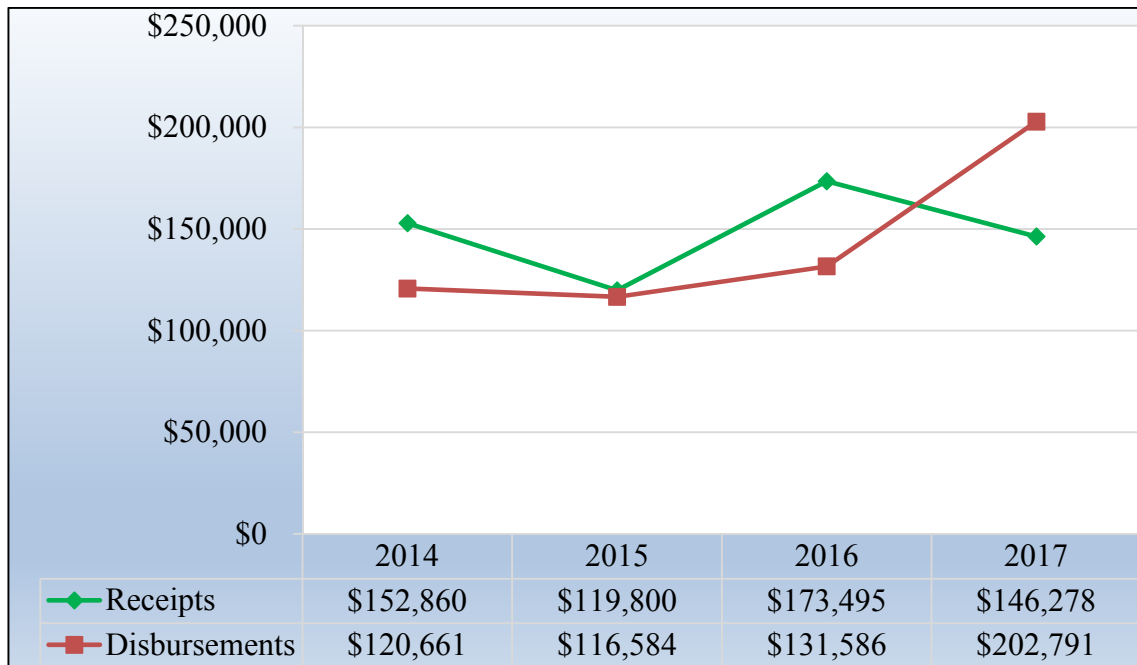
<sup>(3)</sup>Plus all applicable renewal fees

**Schedule of Receipts, Disbursements and Balances**

October 1, 2013 through September 30, 2017

	<b>2016-17</b>	<b>2015-16</b>	<b>2014-15</b>	<b>2013-14</b>
<b><u>Receipts</u></b>				
Licensing Fees	\$ 145,878.00	\$ 169,495.00	\$ 116,300.00	\$ 152,860.00
Penalties	400.00	4,000.00	3,500.00	-
Total	<u>146,278.00</u>	<u>173,495.00</u>	<u>119,800.00</u>	<u>152,860.00</u>
<b><u>Disbursements</u></b>				
In-State Travel	8,038.81	8,180.59	13,650.96	10,364.25
Out-of-State Travel	-	1,651.84	423.84	1,471.86
Rentals and Leases	103.68	129.12	119.52	72.96
Utilities and Communication	4,471.73	2,889.73	3,986.31	4,159.83
Professional Services	184,291.70	114,644.14	93,484.32	97,773.59
Supplies, Materials, and Operating Expenses	5,885.19	4,090.17	4,919.53	6,818.65
Total	<u>202,791.11</u>	<u>131,585.59</u>	<u>116,584.48</u>	<u>120,661.14</u>
Excess (Deficiency) of Receipts over Disbursements	(56,513.11)	41,909.41	3,215.52	32,198.86
Cash Balance at Beginning of Year	<u>170,324.45</u>	<u>128,415.04</u>	<u>125,199.52</u>	<u>93,000.66</u>
Cash Balance at End of Year	113,811.34	170,324.45	128,415.04	125,199.52
Reserved For Year End Obligations	<u>(38,678.56)</u>	<u>(51,010.51)</u>	<u>(16,336.43)</u>	<u>(13,681.44)</u>
Unreserved Cash Balance at Year End	<u>\$ 75,132.78</u>	<u>\$ 119,313.94</u>	<u>\$ 112,078.61</u>	<u>\$ 111,518.08</u>

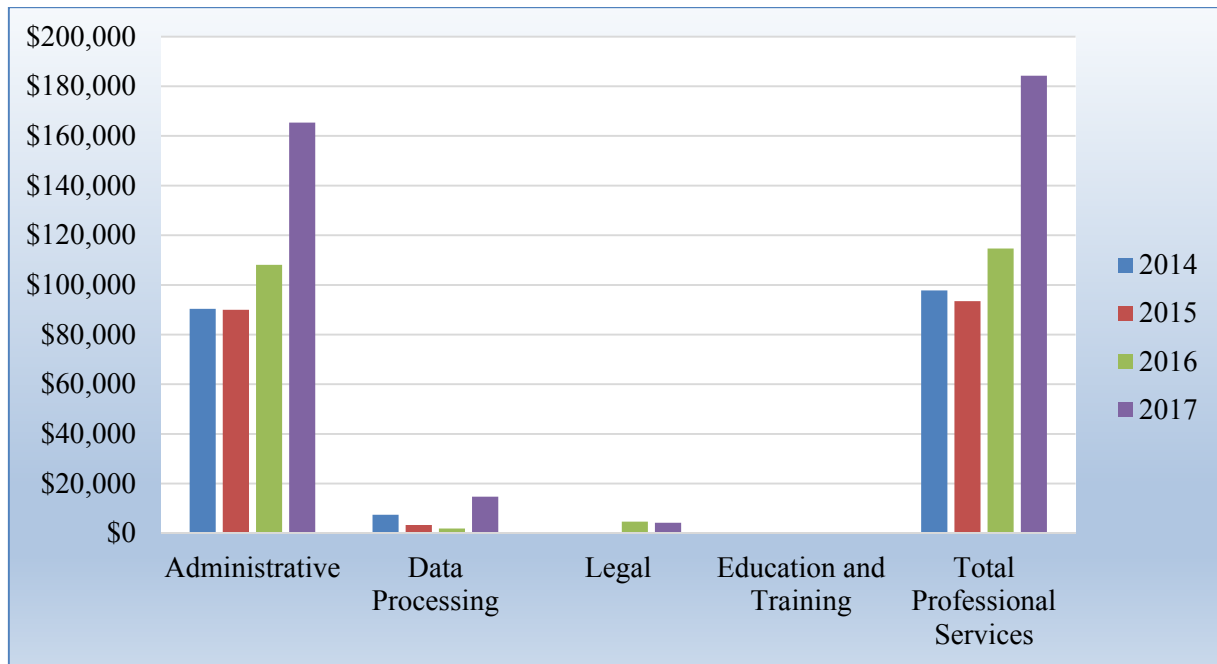
**Operating Receipts vs. Operating Disbursements (Chart)**



<b>SUMMARY SCHEDULE OF PROFESSIONAL SERVICE DISBURSMENTS*</b>				
As of September 30 <sup>th</sup>				
<b>Type Service</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Administrative	\$ 90,364.25	\$ 90,000.00	\$ 108,088.18	\$ 165,388.80
Data Processing	7,409.34	3,309.32	1,885.96	14,722.90
Legal	-	-	4,670.00	4,180.00
Education and Training	-	175.00	-	-
<b>Total</b>	<b>\$ 97,773.59</b>	<b>\$ 93,484.32</b>	<b>\$ 114,644.14</b>	<b>\$ 184,291.70</b>

\*A detailed schedule of professional service disbursements by vendor is presented in the appendices of this report.

### Professional Service Disbursement Chart



## **QUESTIONNAIRES**

### **Board Member Questionnaire**

A letter was sent to all six Board members requesting participation in our survey. Four participated in the survey. The percentages, where shown, are based on the number who responded to the question.

**1. What are the most significant issues currently facing the Board of Massage Therapy and how is the Board addressing these issues?**

**Board Member #1** – “Ability to inspect all establishments because of limited resources.”

**Board Member #2** – “Massages given by unlicensed therapists. Addressing by inspections and penalties.”

**Board Member #3** – “Unlicensed practitioners, sex trafficking.”

**Board Member #4** – “Sex trafficking, people falsifying license. More investigations.”

**2. What, if any, changes to the Board’s laws are needed?**

**Board Member #1** – “Strengthen enforcement ability of the board.”

**Board Member #2** – “More detailed background checks for applicants.”

**Board Member #3** – “Most of the board has completed their terms so a new board needs to be elected.”

**Board Member #4** – “I think massage board she also cover Asian body work as well with a separate license for bodywork.”

**3. Is the Board adequately funded?**

<b>Yes</b>	<b>2</b>	<b>50%</b>
No	1	25%
Unknown	1	25%

**Board Member #1** – “More funds are needed for additional inspectors and investigators.”

**Board Member #4** – “We probably will need more investigators in the future.”

**4. Does the Board receive regular reports on operations from the Executive Director?**

<b>Yes</b>	<b>4</b>	<b>100%</b>
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**5. Is the Board adequately staffed?**

<b>Yes</b>	<b>3</b>	<b>75%</b>
No	1	25%

**Board Member #1** – “Board would benefit from one or two more inspectors.”

**6. Has the Board experienced any significant changes to its operations?**

<b>No</b>	<b>3</b>	<b>75%</b>
Unknown	1	25%

**7. Does the Board plan any significant changes in its operations?**

Yes	1	25%
<b>No</b>	<b>3</b>	<b>75%</b>

**Board Member #1** – “Board has been digitizing records making the records more easily accessible to office staff and making the support staff more efficient.”

**Licensee Questionnaire**

A letter was sent to one hundred licensees requesting their participation in our survey. Eighteen participated in the survey. The percentages, where shown, are based on the number who responded to the questionnaire.

**1. Do you think regulation of your profession by the Board of Massage Therapy is necessary to protect public welfare?**

<b>Yes</b>	<b>15</b>	<b>83%</b>
No	2	11%
No Opinion	1	6%

**Respondent #10** – “An LMT does more than "rub on people", we provide therapy that can work with or sometimes replace western medical practices. It absolutely needs regulation. The guideline they provide for education requirements are quite important.”

**Respondent #13** – “There are people doing massages that do not have a license. I have be told there are a couple of nurses who are seeing clients at their home and they do not have a massage license. So, I feel that the board does try to keep up with us that have license and try to find the ones that do not.”

**2. Do you think any of the Board’s laws, rules and policies are an unnecessary restriction on the practice of your profession?**

Yes	5	28%
<b>No</b>	<b>13</b>	<b>72%</b>

**Respondent #1** – “I think if we offer relaxation massage we don't have to be licensed at all except therapeutic massage and reflexology is not massage. I don't think we have to be licensed to perform.in the laws I did not see any rules about reflexology.”

**3. Do you think any of the Board’s requirements are irrelevant to the competent practices of your profession?**

Yes	4	22%
<b>No</b>	<b>13</b>	<b>72%</b>
No Opinion	1	6%

**Respondent #1** – “I think if we offer relaxation massage we don't have to be licensed at all except therapeutic massage and reflexology is not massage. I don't think we have to be licensed to perform.in the laws I did not see any rules about reflexology.”



**4. Are you adequately informed by the Board of changes to and interpretations of the board positions, policies, rules, and laws?**

<b>Yes</b>	<b>7</b>	<b>38%</b>
No	5	28%
Unknown	5	28%
No Opinion	1	6%

**Respondent #1** – “I am not sure if I need a license to perform reflexology. I did not see any laws about it.”

**Respondent #5** – “I’ve never received notifications I’ve only took it upon myself to review laws.”

**Respondent #9** – “We could really use a newsletter. If we already have one, then it needs to be better distributed.”

**Respondent #11** – “I haven’t gotten any notices in the almost 2 years I have been practicing. So I am unsure of this answer.”

**Respondent #13** – “I use to receive a newsletter with changes and updates, but I have not received one in a couple of years.”

**5. Has the Board performed your licensing and renewal in a timely manner?**

<b>Yes</b>	<b>17</b>	<b>94%</b>
No Opinion	1	6%

**Respondent #5** – “very slow.”

**6. Do you consider mandatory continuing education necessary for the competent practice of your trade?**

<b>Yes</b>	<b>15</b>	<b>83%</b>
No	2	11%
Unknown	1	6%

**Respondent #10** – “Schools should teach entry level, continuing ed, provides the ability to branch out to specialty areas.”

**7. Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?**

<b>Yes</b>	<b>15</b>	<b>83%</b>
Unknown	3	17%

**8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?**

**Respondent #1** – “They need to know what is medical massage and non-medical massage. If just perform non-medical massage, we can just get massage permit to perform massage after we get trained from massage school.”

**Respondent #3** – “Massage Therapist practicing without a license. They have investigators who check out the complaints.”

**Respondent #4** – “Unprofessional practices in massage businesses. I feel like the board needs to be out in the field more often doing more inspections.”

**Respondent #5** – “Cracking down on unprofessional unlicensed therapy establishments”

**Respondent #6** – “None that I'm aware of. I am a Certified Rolfer, which is under the regulatory umbrella of the AL Board of Massage Therapy. I thought the initial exam was unnecessary as I had just graduated from the Rolf Institute in Boulder, and taking the massage exam was not exactly in my scope of practice.”

**Respondent #8** – “None.”

**Respondent #9** – “The promotion of and general public education on the massage therapy profession. There is still too much negative stigma in public opinion of our industry.”

**Respondent #10** – “People working without a license. They have someone who keeps a great check on this.”

**Respondent #11** – “People practicing without a license, I know of one girl who was reported and when she was checked on nothing happened to her because she lied and they took her word when there were reviews for her practice on Facebook that showed she was massaging for the public.”

**Respondent #13** – “Making sure all of the new therapists are properly trained and have Al. Licenses.”

**Respondent #16** – “I have no issues today”

**Respondent #17** – “I just became licensed in Alabama”

**Did Not Respond** 6

**9. Do you think the Board and its staff are satisfactorily performing their duties?**

<b>Yes</b>	<b>13</b>	<b>72%</b>
Unknown	4	22%
No Opinion	1	6%

**Respondent #4** – “As previously stated I feel they should be doing more inspections.”

**Respondent #9** – “They seem to be just getting by. There is certainly more that they can do.”

**Respondent #17** – “I have only dealt with [REDACTED] and she has been spectacular.”

**10. Has any member of the Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?**

<b>No</b>	<b>18</b>	<b>100%</b>
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**Establishment Questionnaire**

A letter was sent to one hundred establishments requesting their participation in our survey. Twenty-three participated in the survey. The percentages, where shown, are based on the number who responded to the questionnaire.

**1. Do you think regulation of your profession by the Board of Massage Therapy is necessary to protect public welfare?**

<b>Yes</b>	<b>22</b>	<b>96%</b>
No	1	4%

**Respondent #1** – “I believe that it is more important for separation from other things that are not professional massage.”

**Respondent #2** – “To avoid confusion about sexual services and general safety concerning contraindications and other health issues.”

**Respondent #4** – “I think regulation helps keep the massage therapy professional.”

**Respondent #6** – “Although, I do think many regulations and standards need to be updated.”

**Respondent #10** – “Too many people who think massage therapy is something anyone can do or learn via YouTube, Skype, video, etc. We need regulation to maintain a way to manage and control people who are not qualified to be performing massage therapy on the public. Also, there is the issue of human trafficking to consider. Deregulating massage therapy in Alabama will result in an explosion of illegitimate massage therapy establishments and human trafficking networks in our state.”

**Respondent #13** – “I believe the Board of Massage Therapy in the State of Alabama needs more informed employees at the office to help massage Therapists.”

**Respondent #10** – “There are many unlicensed massage practitioners in my area.”

**2. Do you think any of the Board’s laws, rules and policies are an unnecessary restriction on the practice of your profession?**

Yes	3	13%
<b>No</b>	<b>19</b>	<b>83%</b>
Unknown	1	4

**Respondent #1** – “I believe that the rules to cause therapists to get more training when moving to Alabama, even though they have national certification and having been licensed in other states and practicing for several years.”

**Respondent #7** – “I do not think it is right to further tax practicing therapists with a so-called "Establishment License" just because we have our own building and private -owner massage business when massage is the only business we are conducting and already having to pay an Alabama license fee to practice.”

**Respondent #18** – “I do think our scope of practice for day spa owners should be broadened a bit.”

**3. Do you think any of the Board’s requirements are irrelevant to the competent practices of your profession?**

Yes	1	4%
<b>No</b>	<b>17</b>	<b>73%</b>
Unknown	4	17%
No Opinion	1	6%

**Respondent #4** – “Establishment License.”

**4. Are you adequately informed by the Board of changes to and interpretations of the Board positions, policies, rules, and laws?**

<b>Yes</b>	<b>8</b>	<b>35%</b>
<b>No</b>	<b>8</b>	<b>35%</b>
Unknown	6	26%
No Opinion	1	4%

**Respondent #8** – “I have never received information from the Board unless I have directly sought it myself either on their website or contacting them directly to ask a question. They do answer direct questions quickly and efficiently, but you have to ask.”

**Respondent #16** – “The way the law is enforced with [REDACTED] coming Knocking on your Home front door unannounced because the law has you use your home address so you can work outside the home was an intrusion on my family and privacy. I am not sure how to make a change however, with my compliance with the laws came an embarrassing meeting on my front porch for both myself and [REDACTED].”

**Respondent #19** – “Not at all”

**5. Has the Board performed your licensing and renewal in a timely manner?**

<b>Yes</b>	<b>20</b>	<b>87%</b>
No Opinion	3	13%

**Respondent #5** – “Always very professional and very quick turnaround.”

**Respondent #8** – “The process as it stands is wieldy. Paper forms, applications for information that is already on file, and a notary required every time a license is renewed is overkill. This process should be translated to online renewal with an online payment option.”

**Respondent #19** – “They take more than 2weeks to get them back to you.”

**6. Do you consider mandatory continuing education necessary for the competent practice of your trade?**

<b>Yes</b>	<b>19</b>	<b>83%</b>
No	4	17%

**Respondent #2** – “Yes it helps, but with online training, continuing ed has become a farce - classes can be paid for and test passed without even attending a class, that is classes are too simple”

**Respondent #8** – “All healthcare professionals must perform continuing education in order to stay competent in their chosen field. Massage therapy is a part of the healthcare system. Unfortunately, I believe continuing education must remain mandatory due to the fact that many massage therapists don't understand the value of keeping abreast of the changing landscape of our industry, trends, and updated medical knowledge in the fields of anatomy, physiology, and kinesiology (at a minimum).”

**Respondent #11** – “However, it is very expensive and makes it very difficult to travel out of state for hands on training which is needed more. Online training is cheaper, but you don't learn as much as hands-on.”

**Respondent #16** – “I feel that hands-on learning needs to be strengthened. On-line learning does not give a massage therapist refined tactile still.”

**Respondent #18** – “I do think for those of us who have been in practice for 10 or more years, CEs should be optional as there are not that many new things for us to certify in. For therapists under 10 years, yes because they need to build their toolboxes.”

**7. Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?**

<b>Yes</b>	<b>13</b>	<b>57%</b>
No	4	17%
Unknown	6	26%

**Respondent #1** – “My understanding is that any NCBTMB Approved Provider is automatically approved by the state. Thus, there is a national network of providers we can access. I personally seek NCBTMB Approved Providers for my continuing education needs because I am NCBTMB Board Certified and need the NCBTMB hours.”

**Respondent #3** – “Access to most classes are typically out of town which imposes an added expense to the therapist.”

**Respondent #4** – “I feel like if you are teacher of massage than you should not have to get approved for teaching ceu's.”

**8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?**

**Respondent #2** – “Sexual exploitation.”

**Respondent #4** – “I don't know of any issues in my practice.”

**Respondent #5** – “Making sure everyone has their license.”

**Respondent #6** – “Finding quality therapists is the most significant issue! Massage Therapy schools should run their programs like nursing schools, where students understand the importance of work ethics, hygiene, no smoking (or smelling like smoke), no tattoos showing. High paying clientele are very selective, and should be, when it comes to someone rubbing on your naked body! Upscale spas also have a reputation to uphold and most of the students coming out of MT schools are less than desirable!”

**Respondent #7** – “Inability to be recognized as a health provider under health insurance plans.”

**Respondent #8** – “Human trafficking - I understand that our investigator is now heading the state human trafficking task force. A year or so ago I had a run-in with a pervert requesting illegal services. He got particularly nasty when I refused service to him. In talking with co-workers and other local therapists it came to light that he was doing the same to many others. I called the board to ask what could be done. At the time there was some discussion about a database of predators being put together at the state level. I was told "Legal" was reviewing it and someone would be in contact. I was never called back with any information regarding this issue and at this point assume nothing has been done. I don't know what the solution to this problem is, but I find it disturbing that I can be arrested and lose my license for someone accusing me of solicitation, but I have no recourse when someone solicits sex services from me. Asian footcare, massage, acupuncture places with one license hanging on the wall and multiple "therapists" working there. I don't know if it's a language barrier or what is going on, but I fail to understand how these places continue on in business. I see client after client who have been to these places and come away with visible bruises and have spent a lot of money trying to deal with physical issues that are not alleviated or solved. Part of that is a lack of education on the part of the public, but I feel the board is responsible for stopping these unlicensed people from causing further harm to the public.”

**Respondent #12** – “Unlicensed massage therapists.”

**Respondent #15** – “Inadequate training in schools, unprofessional practices going unnoticed.”

**Respondent #16** – “Out of touch on this.”

**Respondent #17** – “I believe that adding medical massage as a form of alternative medicine is necessary and should be made billable through insurance. Massage has been proven to be effective in most of the patients/clients that are treated here.”

**Respondent #18** – “Unlicensed practices, massage being performed under the facade of foot massage in the malls and private establishments”

**Respondent #19** – “That they don't help us show people that we not doing anything illegal..nothing”

**Respondent #20** – “Public and medical education on the difference between professional licensed massage therapist on their role in Intergrated Medical Care like when they work under Chiropractic Care or Medical Doctors. As opposed to certain cities that want to refer to us as masseuses and escorts. 2 yesterday degrees and continuing education are not needed to become an escort.”

**Respondent #21** – “The public’s perception of massage therapy. Hopefully all they can”

**Respondent #22** – “Staffing and education. Not aware of what the Board is doing to address this issue.”

**Respondent #23** – “Being more recognized in the medical field, more research in massage more hands on training.”

**Did Not Respond**

7

**9. Do you think the Board and its staff are satisfactorily performing their duties?**

<b>Yes</b>	<b>14</b>	<b>61%</b>
No	2	9%
Unknown	6	26%
No Opinion	1	4%

**Respondent #2** – “But probably being way over paid. The duties are minimal.”

**Respondent #5** – “Always an excellent job.”

**Respondent #15** – “Yes, and no. I do think that this board is much more proficient in getting new licenses and renewals out and up today. I also really love receiving my renewal packets. However, I used to work at a massage clinic and the board would come in regularly to check in on everything. I have been at my current place on employment 4 years and have never had anyone come in to check. It worries me because while I maintain my license, insurance, and space, without regular board check ins, LMT's are not being held accountable by anyone but themselves.”

**Respondent #18** – “They need to mandate or govern the foot therapy practices taking business from licensed practitioners who pay our dues”

**Respondent #19** – “I never get a reply back from anyone except the front desk and still it takes forever.”

**10. Has any member of the Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?**

<b>No</b>	<b>23</b>	<b>100%</b>
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**Complainant Questionnaire**

A letter was sent to thirty-seven complainants requesting their participation in our survey. Eight participated in the survey. The percentages, where shown, are based on the number who responded to the questionnaire.

**1. How was your complaint filed with the Board of Examiners of Landscape Architects?**

Mail	2	25%
Phone	2	25%
Fax	1	13%
<b>Email</b>	<b>3</b>	<b>37%</b>

**Complainant #2** – “My complaint was filed by scan and fax.”

**Complainant #8** – “Filed via USPS; Certified/Signature required June 13, 2017 Addressed to: Alabama Board of Massage Therapy 2777 Zelda Rd. Montgomery Al. 36106.”

**2. Was receipt of your complaint promptly acknowledged?**

<b>Yes</b>	<b>7</b>	<b>87%</b>
No	1	13%

**Complainant #2** – “Within about a week I received a letter in the mail.”

**3. If you answered yes to question 2, approximately how long after you filed your complaint were you contacted by the Board?**

Immediately	1	14%
<b>Within 10 days</b>	<b>5</b>	<b>72%</b>
Within 20 days	1	14%

**Complainant #5** – “Quickly, but don't remember.”

**Complainant #6** – “Was actually about 2 days.”

**Did Not Respond** 1

**4. Was the Board employee who responded to your complaint knowledgeable and courteous?**

Courteous	2	25%
<b>Both</b>	<b>6</b>	<b>75%</b>

**Complainant #2** – “I don't about knowledgeable. She just conveyed to me that an investigator would be in touch with me.”

**5. Did the Board communicate the results of investigating your complaint to you?**

<b>Yes</b>	<b>5</b>	<b>62%</b>
No	3	38%

**Complainant #2** – “The board did not communicate the results of the investigation complaint to me. There remains no results and no communication between the board and I. I was contacted one day abruptly in the midst of the investigation by the board’s personal investigator who conveyed that he would be in my city the next day and that he wanted to meet with me to get a verbal statement. My initial conversation with him was the facts about what happened that day. I was faced with an uncompromising situation with the massage therapist. Where he grazed and groped some of my body parts without my consent. I explained to him how life altering and mentally challenge this had become for me and my family. At times it left me skeptical and mentally incapacitated. I conveyed that because of this, I had a prior scheduled counseling session and doctor’s appt and could not meet at that time. So I never heard anything again.”

**Complainant #4** – “We received the details of the hearing process from an investigator. When we needed clarity on the process, he referred us to the attorney general's office. Both the AG and the investigator were helpful but their information was contradictory. It would be helpful if this information were available on a website or written form.”

**Complainant #6** – “Not yet.”

**Complainant #8** – “I received communication from the Board, stating that they Closed the case due to insufficient evidence on: January 12, 2018; via USPS presorted mail.”

**6. Do you think the Board did everything it could to resolve your complaint?**

<b>Yes</b>	<b>4</b>	<b>50%</b>
No	2	26%
Unknown	1	12%
No Opinion	1	12%

**Complainant #2** – “I do not think the board did everything they could to resolve my complaint, simply because there is no resolve at this present time and because of the lack of communication I feel that it’s not even intended. I have followed the proper protocol to bring awareness to this terrible, life altering incident and in hopes that The Massage Therapist, The establishment that allowed this to occur and The board of massage therapy who I felt also was negligent be held accountable. I received maybe two phone calls from the detective. The one explaining what the process may look like. He explained that the goal was to speak with the establishment and therapist and to get him to confess in hopes of the board taking away his license and so I would not have to testify in front of him and the board and to avoid me going through a horrific and degrading process. So the board’s personal investigator spoke with the establishment and the therapist. He called me and conveyed that. The investigator also said that he sent an undercover person in there to receive a massage and nothing happened. So he called me and conveyed that to me as well. So he suggested in closing my case based off of someone else's experience. At that time I was deeply disturbed. I did not cosign on that suggestion /dismissal. I verbally declined and I asked that the case remain opened for further investigation. To this day still no resolve??”

**Complainant #4** – “Our case never got to the board. It was resolved internally prior to the board hearing the case.”

**Complainant #8** – “I do not believe the Board did everything it could to resolve my complaint. The evidence in my complaint was gathered, drawn and submitted by an attorney. It was composed in clear language; chronological order and contained substantial amounts of evidence including; letters, emails, certificate and phone numbers.”

**7. Were you satisfied with your dealings with the Board?**

<b>Yes</b>	<b>4</b>	<b>50%</b>
No	2	25%
No Opinion	2	25%

**Complainant #2** – “Absolutely not. I am not satisfied with my dealings with the board because they remain very minimum. I have yet to see action taken in this horrible ordeal. When I went to the massage place on August 10, 2017 I never expected to be in an uncompromising situation considering the fact that I had been a loyal client for over 14 years. I had never had a problem with this particular establishment up until that day. It change my life forever. This whole process has been terrifying for me and my family. I am very disappointed with the establishment that allowed this to occur, the therapist and especially the board because of the lack of actions taken and not performing a simple background check on this man. It was brought to my attention by a reliable source who had access to public records and by an investigator that this man had a prior record / history pertaining to things of this nature. I am sad and greatly concerned that the board does not require this not considering people, their well-being and safety. I’m afraid that if action isn’t taken it may happen again to someone else. It is my hope that someone take full accountability at all cost and resolve this matter expeditiously so that I can ,move on and no one else experience what I have and still experiencing. Please respond and resolve.”

**Complainant #3** – “I called because I had been sexually assaulted by a massage therapist. I felt like my complaint was not taken seriously until I emailed them photographs of the bruises on me. They aggressively followed up on the matter after I sent the photos. It would have been nice to know what was said by the person who did this to me. I have liked the investigator to have followed up with law enforcement about the investigation.”

**Complainant #4** – “see answer to #6.”

**Complainant #7** – “After Board member contacted the L.M.T., she was easier to contact on the phone. I gave her a "second chance" and have been pleased with the services since then.”

**Complainant #8** – “To whom it may concern, Thank you for asking, however and unfortunately, I wasn't very pleased as I was not given the opportunity to deal directly with the Board or any member, other than the brief meeting in July 2017, with an investigator who explained basic procedural protocol and said to wait three (3) months for a response. Indeed, I waited eagerly, in fact four (4) months without any communication from the board. In November I decided to place a call to the Montgomery Massage Board office to inquire about the status of my case, only to encounter a secretary or paralegal person who was neither courteous or forthcoming with information. She said there was "nothing to tell me" because she didn't know if "He" a nameless one, had gotten around to it. She said I'd have to wait still, now, an undetermined amount of time. I was not thrilled but understood that I was

*Complainant Questionnaire*

not the only one filing a complaint and trust things done well sometimes take a bit more work and time. On January 11, 2018, I finally received communication from the Board, adding insult to injury; to state: not enough evidence and now the case is closed. So thank you again for your survey, for whatever it means. Unfortunately, it has been two years of very disappointing experiences and great financial loss for me in the amount of \$10,000. The first, dealing with the [REDACTED]; its Sole Proprietor /Administrator /Instructor /Student Councilor/Financial Advisor / Etc. [REDACTED] who does not confer degrees or licenses, is only a vehicle disseminating preparatory information for the Exam. But has been granted such power and the ability to collect thousands and continue to ask for more money at will, without checks and balances from A Massage Board put Established to do so. Sincerely,

[REDACTED]

# **APPENDICES**

## **Applicable Statutes**

### **Section 34-43-1 Short title.**

This chapter shall be cited as the "Alabama Massage Therapy Licensure Act."  
(*Acts 1996, No. 96-661, p. 1060, §1.*)

### **Section 34-43-2 Legislative findings and intent.**

Massage therapy is declared by the Legislature to be a professional therapeutic health service. The Legislature finds that in the practice of massage therapy, there is a necessity to preserve and protect individual life and health, to promote the public interest and welfare by establishing licensure requirements and assuring public safety. It is the intent of this chapter to establish a regulatory agency and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of massage therapy. All persons engaged in the practice of massage therapy in this state shall meet the requirements set forth in this chapter.

(*Acts 1996, No. 96-661, p. 1060, §2; Act 2000-704, p. 1430, §1.*)

### **Section 34-43-3 Definitions.**

For purposes of this chapter, the following terms shall have the following meanings:

- (1) ADVERTISE. Distributing a card, flier, sign, or device to any person or organization, or allowing any sign or marking on any building, radio, television, or by advertising by any other means designed to attract public attention.
- (2) BOARD. The Alabama Board of Massage Therapy created pursuant to this chapter.
- (3) BOARD-APPROVED MASSAGE THERAPY SCHOOL. A school where massage therapy is taught which is one of the following:
  - a. If located in Alabama is approved by the board as meeting the minimum established standards of training and curriculum as determined by the board.
  - b. If located outside of Alabama is recognized by the board and by a regionally recognized professional accrediting body.
  - c. Is a postgraduate training institute accredited by the Commission on Accreditation for Massage Therapy.
- (4) ESTABLISHMENT. A site, premises, or business where massage therapy is practiced by a licensed massage therapist.
- (5) EXAMINATION. A National Certification For Therapeutic Massage and Bodywork Examination administered by an independent agency or another nationally or internationally accredited exam administered by an independent agency per approval of the board. The examination will be accredited by the National Committee for Certifying Agencies. The board retains the right to administer a written, oral, or practical examination.
- (6) LICENSE. The credential issued by the board which allows the licensee to engage in the safe and ethical practice of massage therapy.
- (7) MASSAGE THERAPIST. A person licensed pursuant to this chapter who practices or administers massage therapy or touch therapy modalities to a patron for compensation.
- (8) MASSAGE THERAPY INSTRUCTOR. A licensed massage therapist approved by the board to teach the practice of massage therapy.

(9) PERSON. Any individual, firm, corporation, partnership, organization, association, or other legal entity.

(10) SEXUALLY ORIENTED BUSINESS. A sex parlor, massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult motel, or other commercial enterprise which has as its primary business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer.

(11) STUDENT OF MASSAGE THERAPY. Any person currently enrolled in an Alabama massage therapy school program approved by the board.

(12) TEMPORARY PERMIT. A temporary permit issued at the request of a massage therapist who is qualified according to the Alabama massage therapy law prior to approval by the board and not to exceed six months.

(13) THERAPEUTIC MASSAGE AND RELATED TOUCH THERAPY MODALITIES. The mobilization of the soft tissue which may include skin, fascia, tendons, ligaments, and muscles, for the purpose of establishing and maintaining good physical condition. The term shall include effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold applications, topical applications, or other therapy which involves movement either by hand, forearm, elbow, or foot, for the purpose of therapeutic massage. Massage therapy may include the external application and use of herbal or chemical preparations and lubricants such as salts, powders, liquids, nonprescription creams, mechanical devices such as T-bars, thumpers, body support systems, heat lamps, hot and cold packs, salt glow, steam cabinet baths or hydrotherapy. The term includes any massage, movement therapy, massage technology, myotherapy, massotherapy, oriental massage techniques, structural integration, or polarity therapy. The term shall not include laser therapy, microwave, injection therapy, manipulation of the joints, or any diagnosis or treatment of an illness that normally involves the practice of medicine, chiropractic, physical therapy, podiatry, nursing, midwifery, occupational therapy, veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathics.

*(Acts 1996, No. 96-661, p. 1060, §3; Act 2000-704, p. 1430, §1; Act 2011-169, p. 324, §3; Act 2017-383, §3.)*

#### **Section 34-43-4 Regulated activities.**

Except as specifically provided by this chapter, beginning January 1, 1997, no person may do any of the following unless licensed pursuant to this chapter:

- (1) Advertise that he or she performs therapeutic massage or related touch therapy modalities.
- (2) Hold himself or herself out to the public as a massage therapist, using any name or description denoting himself or herself as a massage therapist, or purporting to have the skills necessary to perform massage therapy.
- (3) Practice massage therapy.

*(Acts 1996, No. 96-661, p. 1060, §4.)*

#### **Section 34-43-5 Exemptions.**

(a) The following persons, offices, or establishments shall be exempt from this chapter:

- (1) A student of massage therapy who is rendering massage therapy services under the supervision of a licensed massage therapy instructor, or any other supervisory arrangement recognized and approved by the board, including, but not limited to, a temporary permit. The student shall be designated by title clearly indicating the training status of the student.

- (2) Qualified members of other professions who are licensed and regulated under Alabama law while they are in the course of rendering services within the scope of their license or regulation, provided that they do not represent themselves as massage therapists.
  - (3) A person giving massages to his or her immediate family.
  - (4) Visiting massage therapy instructors from another state, territory, or country teaching massage therapy, provided that the massage therapy instructor is licensed or registered as required in his or her place of residence. Visiting massage instructors teaching continuing education courses may teach in the state up to 100 hours per year without an Alabama license. One hundred hours of continuing education instruction or more shall require licensure.
  - (5) Members of the Massage Emergency Rescue Team (MERT) or any other nationally or internationally recognized disaster relief association who practice massage therapy in the state only during a time declared by the Governor to be a city, county, or state emergency. These therapists may work in the state for a period of time approved by the board.
  - (6) Native American healers using traditional healing practices, provided, however, Native American healers who use these practices but apply for a license pursuant to this chapter shall comply with all licensure requirements.
  - (7) A person acting under the supervision of a physician, a physical therapist, or a chiropractor within the scope of their license or regulation, provided that they do not represent themselves as massage therapists.
  - (8) The office of a chiropractor, physician, or physical therapist who employs or contracts with a massage therapist. It is the specific intent of this subdivision that a chiropractor, physician, or physical therapist and his or her office not be required to be licensed as an establishment under this chapter or be required to obtain any exemption under this chapter from the board.
- (b) Nothing in this chapter shall be construed to permit massage therapists licensed under this chapter to administer, dispense, or prescribe drugs, or engage in the practice of medicine in any manner, including, but not limited to, diagnosing or prescribing drugs for mental, emotional, or physical diseases, illnesses, or injuries.

*(Acts 1996, No. 96-661, p. 1060, §5; Act 2000-704, p. 1430, §1; Act 2009-741, p. 2218, §1.)*

### **Section 34-43-6 Alabama Board of Massage Therapy.**

- (a) There is created the Alabama Board of Massage Therapy. The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that licensed massage therapists, massage therapy schools, and massage therapy instructors meet prescribed standards of education, competency, and practice. To accomplish this mission, the board shall establish standards pursuant to this chapter to complete all board functions in a timely and effective manner and to provide open and immediate access to all relevant public information. The board shall communicate its responsibilities and services to the public as part of its consumer protection duties. The board shall develop and implement a long range plan to ensure effective regulation and consumer protection.
- (b) The board shall consist of seven members appointed by the Governor, subject to confirmation by the Senate. No member of the board shall serve more than two full consecutive terms. The members initially appointed to the board shall be appointed not later than July 16, 1996. Five of the members initially appointed to the board shall have been actively engaged in the practice of massage therapy for not less than three consecutive years prior to the date of their appointment to the board. Successor members to these initial five appointees shall be licensees of the board. Two members shall be public members who shall not be licensed, nor have been licensed in the past, and shall not have any direct financial interest in the massage therapy profession. Each board member shall be a high school graduate or shall have received a graduate equivalency

diploma. Each board member shall be selected upon personal merit and qualifications, not per membership or affiliation with an association. Each board member shall be a citizen of the United States and this state and a resident of this state for two years immediately preceding the appointment. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. As the terms of members serving on April 28, 2011, expire, or as vacancies occur, new members shall be appointed so that not more than one member from each United States Congressional District is appointed to serve at the same time.

(c) Of the initial seven appointees to the board, three members shall be appointed for terms ending September 30, 1997, and four members shall be appointed for terms ending September 30, 1999. Thereafter, successors shall be appointed for terms of four years, each term expiring on September 30.

(d) Vacancies on the board occurring prior to the expiration of a term shall be filled by the Governor within 30 days of the vacancy to serve for the remainder of the unexpired term. Each member of the board shall serve until his or her successor has been duly appointed and qualified.

(e) At the first meeting, and annually thereafter in the month of October, the board shall elect a chair and vice chair from its membership.

(f) The board shall hold its first meeting within 30 days after the initial members are appointed. The board shall hold meetings during the year as it determines necessary, two of which shall be the biannual meetings for the purpose of reviewing license applications. Additional meetings may be held at the discretion of the chair or upon written request of any three members of the board. A quorum of the board shall be a majority of the current appointed board members.

(g) Board members shall not receive compensation for their services, but shall receive the same per diem and allowance as provided to state employees for each day the board meets and conducts business.

(h) The board shall promulgate the rules necessary to implement this chapter pursuant to the Administrative Procedure Act.

(i) The board may employ, and at its pleasure discharge, an executive secretary and other officers and employees which may be necessary, including an attorney, to implement this chapter. The board shall also outline the duties and fix the compensation and expense allowances of the employees.

(j) An affirmative vote of a majority of the members of the board shall be required to grant, suspend, or revoke a license to practice massage therapy or a license to operate a massage therapy establishment.

(k) The board shall be financed only from income accruing to it from fees, licenses, other charges and funds collected by it, and any monies that are appropriated to it by the Legislature.

(l) Each board member shall be accountable to the Governor for the proper performance of his or her duties as a member of the board. The board shall report to the Governor annually and at other times as requested by the Governor. The Governor shall investigate any complaints or unfavorable reports concerning the actions of the board and take appropriate action thereon, including removal of any board member for misfeasance, malfeasance, neglect of duty, commission of a felony, incompetence, or permanent inability to perform official duties. A board member may be removed at the request of the board after failing to attend two consecutive properly noticed meetings.

(m) Members of the board are immune from liability for all good faith acts performed in the execution of their duties as members of the board.



(n) Appointees to the board shall take the constitutional oath of office and file it in the office of the Governor before undertaking any duties as a board member. Upon receiving the oath, the Governor shall issue a certificate of appointment to each appointee.

(Acts 1996, No. 96-661, p. 1060, §6; Act 2000-704, p. 1430, §1; Act 2007-201, p. 242, §3; Act 2011-169, p. 324, §3.)

**Section 34-43-7 Powers and duties of board.**

(a) By rule, the board shall make provisions to do all of the following:

- (1) Examine and qualify for examination applicants for licensure and issue a license to each successful applicant.
- (2) Adopt a seal, which shall be affixed to all licenses issued by the board.
- (3) Prescribe application forms for examination and licensure and assess and collect fees pursuant to this chapter.
- (4) Maintain a complete record of all licensed massage therapists and annually prepare a roster of the names and addresses of the licensees. A copy of this roster shall be made available to any person requesting it, upon payment of a fee set by the board in an amount sufficient to cover the costs of its publication and distribution.
- (5) Provide for the investigation of persons who may be violating this chapter.
- (6) Adopt and revise rules and regulations pursuant to the Administrative Procedure Act, including the adoption of rules concerning unprofessional conduct.
- (7) Provide a copy of this chapter to all persons licensed under this chapter and to all applicants for licensure.
- (8) Adopt rules that require massage therapists to carry professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars (\$1,000,000). The massage therapist shall produce evidence of coverage upon request of the board.
- (9) Have other powers necessary and proper for the performance of official duties.

(b) By rule, the board may do any of the following:

- (1) Accept or deny the application of any person applying for licensure as a massage therapist upon an affirmative vote of a majority of the board.
- (2) Establish criteria for certifying massage therapy instructors.
- (3) Adopt an annual budget and authorize necessary expenditures from fees and other available appropriations, provided, in no event shall the expenditures of the board exceed the revenues in any fiscal year.
- (4) Adopt a code of ethics.
- (5) Provide for the inspection of the business premises of any licensee during normal business hours.
- (6) Establish a list of approved massage therapy schools.

(Acts 1996, No. 96-661, p. 1060, §7.)

**Section 34-43-8 License requirement; sexually oriented businesses; services for clients who are ill or who have physical dysfunctions.**

(a) No person may perform the duties of a massage therapist unless he or she possesses a current license issued pursuant to this chapter.

(b) A licensed massage therapist may not perform massage therapy, whether or not for compensation, for a sexually oriented business.

(c) A licensed massage therapist shall not advertise or offer to perform services outside the scope of his or her expertise, experience, and education for clients who are ill, or those with physical

dysfunction(s), unless such services are performed in conjunction with a licensed physician, physical therapist, or chiropractor.

(Acts 1996, No. 96-661, p. 1060, §8.)

**Section 34-43-9 Application for license; educational requirements.**

(a) A person desiring to be licensed as a massage therapist shall apply to the board on forms provided by the board. Unless licensed pursuant to subsection (b), applicants for licensure shall submit evidence satisfactory to the board that they have met each of the following requirements:

(1) Satisfactorily completed a minimum of 500 hours of supervised courses of instruction which shall include, but not be limited to, anatomy, pathology, physiology, massage techniques, clinical practices, ethics, health, hygiene, and related subjects. The board shall determine how the 500 hours of instruction shall be broken down. The course of instruction may be provided by a massage therapy school approved by the board. The minimum 500 hours shall consist of the following: 325 hours dedicated to the study of basic massage therapy techniques and clinical practice related modalities; 125 hours dedicated to the study of anatomy, pathology, and physiology; and an additional 50 hours of discretionary related course work, including, but not limited to, hydrotherapy, business practices and professional ethics, health and hygiene, and cardiopulmonary resuscitation and first aid. Beginning January 1, 1998, applicants for licensure shall be required to complete a minimum of 650 hours of instruction. By rule of the board, the minimum 650 hours shall consist of the following: 100 hours of anatomy and physiology to include 35 hours of myology, 15 hours of osteology, 10 hours of circulatory system, and 10 hours of nervous system, with the remaining 30 hours to address other body systems at the discretion of the school; 250 hours of basic massage therapy, the contradistinctions of massage therapy, and related touch therapy modalities, to include a minimum of 50 hours of supervised massage; 50 hours to include business, hydrotherapy, first aid, cardiopulmonary resuscitation, and professional ethics; and 250 hours of electives to be determined by the school. The board may adopt a rule to further increase the minimum number of hours of instruction required for licensure, not to exceed the number of hours recommended by the National Certification Board for Therapeutic Massage and Bodywork. Before performing therapeutic massage on an animal, a massage therapist shall graduate from a nationally approved program and complete at least 100 hours of postgraduate training and education in animal anatomy, pathology, and physiology for the type of animal upon which the massage therapist wishes to perform therapeutic massage.

(2) Passed the National Certification Exam for Therapeutic Massage and Bodywork offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination of equivalent stature that is accredited by the National Committee for Certifying Agencies.

(b) Notwithstanding the requirements in subdivisions (1) and (2) of subsection (a), the board may license an applicant if the applicant is licensed or registered in another state, which, in the opinion of the board, has standards of practice or licensure that are equal to or stricter than the requirements imposed by this chapter.

(c) Notwithstanding any other provision of this section to the contrary, each applicant for licensure shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.

(d) The board may notify each applicant of the acceptance or rejection of his or her application. If the application is rejected, the board shall list the reasons for rejection.

(Acts 1996, No. 96-661, p. 1060, §9; Act 2000-704, p. 1430, §1; Act 2001-1103, 4th Sp. Sess., p. 1166, §1; Act 2008-129, p. 185, §3.)

**Section 34-43-10 Massage therapist examination.**

(a) In the event that a massage therapist's examination is required, it shall be conducted at the times and places and under the supervision determined by the board. The board shall notify each applicant of the time and place of the examination.

(b) The board may determine by rule the scope, form, and content of the examination, which shall consist of a written examination and a practical examination or oral interview. The examination shall adequately measure the knowledge of the applicant of the practice of massage therapy. Professional testing services may be utilized.

(c) An applicant shall successfully pass the examination in order to be eligible for licensure as a massage therapist. The board shall notify each applicant in writing of the results of the examination. Any applicant who fails to pass the examination may take the examination again upon application and payment of an additional examination fee. No applicant shall be allowed to take the examination more than twice in a two-year period.

(d) All examinations shall be conducted in a manner so that the applicants are known to the board by number until the examination is completed and the grade determined. A record of each examination shall be filed with the board office and available for inspection for a period of two years following the examination.

*(Acts 1996, No. 96-661, p. 1060, §10; Act 2000-704, p. 1430, §1.)*

**Section 34-43-11 Licensing of establishments.**

(a) Establishments shall be licensed by the board. A sexually oriented business may not be licensed as an establishment and shall not operate as an establishment licensed pursuant to this chapter.

(b) Establishments shall employ only licensed massage therapists to perform massage therapy.

(c) The board shall provide by rule, for a fair and reasonable procedure to grant exemptions from the licensure requirement of this section when the applicant can show that the advertising of massage therapy services is incidental to the primary function of his or her business. No such exemption shall be granted to a sexually oriented business.

(d) An establishment license issued pursuant to this chapter is not assignable or transferable.

(e) Subsequent to an official complaint, the board may request a criminal background check of the establishment's licensees through the district attorney of the circuit in which the licensee is located.

*(Acts 1996, No. 96-661, p. 1060, §11; Act 2000-704, p. 1430, §1.)*

**Section 34-43-12 Application forms; issuance of license; display of license.**

(a) Applications for licensure or renewal shall be on forms provided by the board and shall be accompanied by the proper fee. The application shall be legible, either printed in black ink or typed. Applications sent by facsimile shall not be accepted. A two-by-two photograph, taken no more than six months earlier, showing a frontal view of the head and shoulders of the applicant, shall be submitted with the application. All documents shall be submitted in English.

(b) The board shall issue a license to each person who qualifies to be a massage therapist and to each qualified massage therapy establishment. To be qualified for a license as a massage therapist the applicant shall successfully pass the examination, pay the examination fee, and pay the license fee. A license grants all professional rights, honors, and privileges relating to the practice of massage therapy.

(c) Each licensed therapist shall display his or her license in the manner specified by the board. Each establishment shall post its license in plain sight and the license of each massage therapist who practices in the establishment.

(d) A license is the property of the board and shall be surrendered upon demand of the board.  
*(Acts 1996, No. 96-661, p. 1060, §12.)*

**Section 34-43-13 License renewal; reinstatement.**

(a) Each license shall be renewed biennially, on or before the anniversary date, by forwarding to the board a renewal application accompanied by the renewal fee. Any license not renewed biennially on or before the anniversary date shall expire.

(b) Each licensee, upon application for renewal of a license, shall submit evidence of satisfactory completion of the continuing education requirements contained in Section 34-43-21.

(c) Licenses are valid for two years from the date of issuance. An individual whose license has expired and who has ceased to practice massage therapy for a period of not longer than five years may have his or her license reinstated upon payment of a renewal fee and a late fee and submission of a renewal application and evidence satisfactory to the board that the applicant has fulfilled continuing education requirements and passed the examination.

(d) Subsequent to an official complaint, the board may request a criminal background check of the licensee through the district attorney of the circuit in which the licensee is located.

*(Acts 1996, No. 96-661, p. 1060, §13; Act 2000-704, p. 1430, §1.)*

**Section 34-43-14 Fees; Alabama Board of Massage Therapy Fund.**

(a) By rule, the board shall initially assess and collect the following fees not to exceed:

(1) One hundred sixty dollars (\$160) for the examination.

(2) One hundred dollars (\$100) for the initial massage therapist license which shall be issued for one year. The initial licensing fee shall be assessed in the month when the applicant is notified that the license has been approved.

(3) One hundred dollars (\$100) for all biennial license renewals postmarked or received at the office of the board by the date in which the license expires.

(4) Twenty-five dollars (\$25) for the initial application for licensure or the resubmission of the initial application.

(5) One hundred dollars (\$100) for the initial establishment license.

(6) Fifty dollars (\$50) for the biennial renewal of the establishment license.

(7) Fifty dollars (\$50) for the initial registration as a massage therapy school in this state.

(8) Ten dollars (\$10) to renew the registration as a massage therapy school.

(9) Ten dollars (\$10) to register as a massage therapy instructor in this state. This is a one-time fee and does not have to be renewed.

(10) Seventy-five dollars (\$75) to reactivate an inactive license.

(11) Twenty-five dollars (\$25) shall be added to all license fees not post-marked or received by the board before the expiration date of the license.

(12) Fifteen dollars (\$15) to verify a license.

(13) Ten dollars (\$10) for a duplicate license certificate or a name change on a license certificate.

The board may issue a duplicate certificate only after receiving a sworn letter from the massage therapist that the original certificate was lost, stolen, or destroyed. The records of the board shall reflect that a duplicate certificate was issued.

(b) Necessary administrative fees may be charged by the board, including, but not limited to, reasonable costs for copying, labels, and lists. Examination and license fees may be adjusted as the board shall deem appropriate.

(c) There is hereby established a separate special revenue trust fund in the State Treasury to be known as the Alabama Board of Massage Therapy Fund. All receipts collected by the board under the provisions of this chapter are to be deposited in this fund and used only to carry out the

provisions of this chapter. Such receipts shall be disbursed only by warrant of the state Comptroller, upon itemized vouchers approved by the chair of the board; provided that no funds shall be withdrawn except as budgeted and allotted according to the provisions of Sections 41-4-80 to 41-4-96, inclusive, 41-19-1, and 41-19-12, as amended, and only in amounts as stipulated in the general appropriations bill or other appropriations bills.

*(Acts 1996, No. 96-661, p. 1060, §14.)*

**Section 34-43-15 Suspension and revocation of license.**

(a) The board may suspend, revoke, or refuse to issue or renew a license or impose a civil penalty after notice and opportunity for a hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:

- (1) The license was obtained by means of fraud, misrepresentation, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensure.
- (2) The licensee sold or bartered or offered to sell or barter a license for a massage therapist or a massage therapy establishment.
- (3) The licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, safety, and welfare of the public, as defined by the rules of the board.
- (4) The licensee has been convicted of a felony or of any crime arising out of or connected with the practice of massage therapy.
- (5) The licensee has violated or aided and abetted in the violation of this chapter.
- (6) The licensee is adjudicated as mentally incompetent by a court of law.
- (7) The licensee uses controlled substances or habitually and excessively uses alcohol.
- (8) The licensee engaged in false, deceptive, or misleading advertising.
- (9) The licensee had a license revoked, suspended, or denied in any other territory or jurisdiction of the United States for any act described in this section.

(b) Any person who has been convicted of, or entered a plea of nolo contendere to, a crime or offense involving prostitution or other sexual offenses is ineligible to hold a license as a massage therapist for a period of at least three years after the entry of the conviction or plea. The board retains the right to revoke a license indefinitely if the licensee is proven guilty of a crime or of sexual misconduct. Reinstatement of licensure is contingent upon proof of weekly counseling by a licensed professional counselor.

(c) Any person who has been convicted of, or entered a plea of nolo contendere to, an offense involving prostitution or any other type of sexual offense may not receive a license for a massage therapy establishment for a period of three years after the date of conviction or entry of the plea. The board shall revoke the establishment license of any establishment which the board determines is a sexually oriented business. The board may revoke an establishment license if a person is convicted of, or enters a plea of nolo contendere to, any crime involving prostitution or any other sexual offense against a client which occurred on the premises of the establishment.

(d)(1) Upon finding a person, governed by this chapter, performing massage therapy without having obtained a license, the board may do any of the following:

- a. Impose an administrative fine of not more than ten thousand dollars (\$10,000).
- b. Issue a cease and desist order.
- c. Petition the circuit court of the county where the act occurred to enforce the cease and desist order and collect the assessed fine.

(2) Any person aggrieved by any adverse action of the board must appeal the action to the Circuit Court of Montgomery County in accordance with the Alabama Administrative Procedure Act.

(Acts 1996, No. 96-661, p. 1060, §15; Act 2000-704, p. 1430, §1.)

**Section 34-43-16 Use of words "massage" or "bodywork" or other advertising descriptions by non-licensed persons.**

A person who does not hold a license as a massage therapist, physical therapist, chiropractor, or athletic trainer, or a license for an establishment, shall not use the words "massage" or "bodywork" on any sign or other form of advertising describing services performed by the person or at the establishment. Any advertisement by a massage therapist or establishment shall contain the license number of the therapist or establishment. Under no circumstances may a sexually oriented business hold itself out as offering massage therapy services.

(Acts 1996, No. 96-661, p. 1060, §16.)

**Section 34-43-17 Criminal penalties.**

Any person who violates this chapter shall be guilty of a Class C misdemeanor.

(Acts 1996, No. 96-661, p. 1060, §17.)

**Section 34-43-18 Injunction; civil penalty.**

(a) In addition to the criminal penalties prescribed by this chapter, the board may seek an injunction against any person or establishment in violation of this chapter.

(b) In an action for an injunction, the board may demand and recover a civil penalty of fifty dollars (\$50) per day for each violation, reasonable attorney fees, and court costs.

(Acts 1996, No. 96-661, p. 1060, §18.)

**Section 34-43-19 Construction with other regulations.**

(a) Except as otherwise provided in subsection (b), this chapter shall supersede any regulation adopted by a political subdivision of the state related to the licensing or regulation of massage therapists and massage therapy establishments.

(b) This section shall not affect:

(1) Local regulations relating to zoning requirements or occupational license taxes pertaining to massage therapists and massage therapy establishments.

(2) Local regulations that do not relate to the practice of massage therapy by qualified persons.

(c) A county, or a municipality within its jurisdiction, may regulate persons licensed pursuant to this chapter. Regulation shall be consistent with this chapter. This section shall not be construed to prohibit a county or municipality from regulating persons not licensed pursuant to this chapter.

(Acts 1996, No. 96-661, p. 360, §19.)

**Section 34-43-20 Massage therapy schools; instructors.**

(a) To be approved by the board, a massage therapy school shall meet the following requirements:

(1) File a completed application prescribed by the board with the board and pay a registration fee as specified in Section 34-43-14.

(2) Provide documentation of a curriculum which includes a minimum number of required hours of instruction in the subjects required pursuant to Section 34-43-9.

(3) Register annually with the board by filing a renewal form accompanied with the renewal fee pursuant to Section 34-43-14, and submit a current curriculum and a list of instructors.

(b) Every instructor teaching course work titled massage therapy at a board approved school located in Alabama shall be licensed in Alabama as a massage therapist and registered as a massage therapy instructor. Instructors who are not teaching massage therapy do not need to be

registered. Any adjunct instructors shall be dually licensed in the state where they reside, be nationally certified, or both.

(c) The board shall register as a massage therapy instructor any applicant who meets all of the following requirements:

(1) Is currently licensed as a massage therapist in Alabama.

(2) Has filed a completed application prescribed by the board and paid a one-time application fee pursuant to Section 34-43-14.

(3) Documents two years of experience in the practice of massage therapy. The documentation may be considered by the board on a case-by-case basis.

(Acts 1996, No. 96-661, p. 360, §20.)

### **Section 34-43-21 Continuing education.**

(a) Every massage therapist licensed pursuant to this chapter shall be required to complete 16 hours of continuing education as a condition for renewing his or her license. The continuing education courses shall be offered by providers approved by the board. The courses shall have been completed within the 24 months preceding the date renewal is due. Hours in excess of the total number required may not be carried over to future renewals. The continuing education requirements shall not apply to a massage therapist within the biennium when the massage therapist is first licensed, but shall apply to licensees every biennium thereafter. The board may accept for compliance with the continuing education requirement any of the following:

(1) Courses or providers which contribute directly to the massage therapy education of the licensee.

(2) Courses, seminars, workshops, and classes in areas related to the practice of massage therapy such as: Massage, bodywork, allied health care fields (including psychology and medicine), anatomy and physiology, business, insurance, movement therapy, stress management, yoga, CPR, and advanced first aid.

(3) Courses of study offered by registered massage therapy schools in Alabama, or by massage therapy instructors registered with the board, or by any national organization in the field of massage therapy or related touch therapy field.

(b) Up to 25 percent, or four hours of credit, of the required number of hours of continuing education may be earned in each of the following areas:

(1) Teaching a qualifying class, course, seminar, or workshop.

(2) Publishing an article in the field relating to massage therapy.

(3) Speaking on the subject of massage therapy.

(4) Being a panelist discussing massage therapy.

(5) Participating in a personal growth class.

(6) Two hours of professional ethics.

(c) Each of the areas listed in subsection (b) may be used for up to four hours of credit depending on the actual contact hours. One continuing education credit is defined as no less than 50 uninterrupted minutes of learning, except that publishing an article will automatically count for four hours. Continuing education credit may not be awarded for programs which do not relate to subjects listed in this section, or for repeated courses submitted the previous biennium, except for courses listed in subsection (b). The board may select, in a random manner, license renewal applications for audit of continuing education credit. Each licensee shall be responsible for maintaining in his or her personal files the certificates or records of credit from continuing education programs received from approved program providers. Each licensee selected for audit shall be required to produce documentation of attendance at those continuing education activities listed on his or her renewal application.

(1) The board shall send to each licensee selected for audit, a notice of audit. The licensee shall provide satisfactory documentation of attendance at, or participation in, the approved continuing education programs listed in the renewal application.

(2) The licensee shall ascertain that the continuing education program is approved by the board.

(d) The board shall evaluate applications from all providers of continuing education programs, including massage therapy schools and instructors, in order to determine if approval shall be granted or denied.

(1) The provider or licensee shall submit to the board an application on a form provided by the board. Only applications which are complete will be considered.

(2) The provider or licensee shall submit a complete application to the board at least 60 days prior to the date on which the training event is to be given to gain approval before the program is presented.

(e) The board is subject to the Alabama Sunset Law of 1981, and is classified as an enumerated agency pursuant to Section 41-20-3. The board shall automatically terminate on October 1, 2007, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Acts 1996, No. 96-661, p. 1060, §21; Act 2000-704, p. 1430, §1; Act 2004-76, p. 101, §3.)



## Professional Services by Vendor

	2014	2015	2016	2017
<b>ADMINISTRATIVE</b>				
Business Systems & Consultants	\$ -	\$ -	\$ 11,459.14	\$ -
Cynthia Harris	-	-	-	340.00
Department of Finance	-	-	-	48.80
Jenna S Boggs	364.25	-	-	-
Warren & Co Inc	90,000.00	90,000.00	96,629.04	165,000.00
<b>Total Administrative Services</b>	<b>90,364.25</b>	<b>90,000.00</b>	<b>108,088.18</b>	<b>165,388.80</b>
<b>DEPARTMENT OF FINANCE</b>				
Data Processing	6,499.30	2,281.95	987.70	7,470.10
FRMS Services	387.00	449.75	324.00	133.25
Information & Research (STAARs)	-	-	-	6,600.00
Comptroller Services	523.04	577.62	574.26	519.55
<b>Total Department of Finance Services</b>	<b>7,409.34</b>	<b>3,309.32</b>	<b>1,885.96</b>	<b>14,722.90</b>
<b>LEGAL</b>				
Attorney General's Office	-	-	4,670.00	4,180.00
<b>Total Legal Services</b>	<b>-</b>	<b>-</b>	<b>4,670.00</b>	<b>4,180.00</b>
<b>EDUCATION AND TRAINING</b>				
Ala Assoc of Regulatory Boards	-	175.00	-	-
<b>Total Education and Training</b>	<b>-</b>	<b>175.00</b>	<b>-</b>	<b>-</b>
<b>Grand Total</b>	<b>\$ 97,773.59</b>	<b>\$ 93,484.32</b>	<b>\$ 114,644.14</b>	<b>\$ 184,291.70</b>

## Examination Statistics by Schools

### **Birmingham School of Massage, Inc.**

<b>Calendar Year</b>	<b>Exams Taken</b>	<b>#Passed</b>	<b>#Failed</b>	<b>% Passed</b>
2014	25	22	3	86%
2015	29	28	1	97%
2016	26	22	4	85%
2017	8	7	1	88%

### **University of North Alabama School of Massage & Neuromuscular Therapy**

<b>Calendar Year</b>	<b>Exams Taken</b>	<b>#Passed</b>	<b>#Failed</b>	<b>% Passed</b>
2014	-	-	-	-
2015	-	-	-	-
2016	-	-	-	-
2017*	25	10	15	40%

\*School was established in 2016

### **North Alabama Wellness School of Massage**

<b>Calendar Year</b>	<b>Exams Taken</b>	<b>#Passed</b>	<b>#Failed</b>	<b>% Passed</b>
2014	8	8	0	100%
2015	13	13	0	100%
2016	10	8	2	80%
2017	2	0	2	0%

### **Madison School of Massage Therapy**

<b>Calendar Year</b>	<b>Exams Taken</b>	<b>#Passed</b>	<b>#Failed</b>	<b>% Passed</b>
2014	24	17	7	70%
2015	10	7	3	70%
2016	11	7	4	64%
2017	10	8	2	80%

## Board Members



### ALABAMA BOARD OF MASSAGE THERAPY

2777 Zelda Road  
Montgomery, AL 36106  
334-420-7233  
334-263-6115 fax

January 22, 2018

Mrs. Shundra Brown  
Examiners of Public Accounts  
Post Office Box 302251  
Montgomery, AL 36130-2251

Dear Mrs. Brown,

Please find the following list of members that served on the Board during the audit period.

Lemar Storey, *Chair*  
Birmingham, Alabama  
Expiration: September 30, 2017

Lance Gilliland, *Vice Chair*  
Heflin, Alabama  
Expiration: September 30, 2017

Willie DeVold  
Irondale, Alabama  
Expiration: September 30, 2017

Gwen Motley  
Montgomery, Alabama  
September 30, 2011

Foad Araiinejad  
Montgomery, Alabama  
September 30, 2011

Michael Stephens  
Wetumpka, Alabama  
Expiration: September 30, 2015

Please let me know if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Keith E. Warren  
*Executive Director*

**Response to Significant Issues**



**ALABAMA BOARD OF MASSAGE THERAPY**

2777 Zelda Road  
Montgomery, AL 36106  
334-420-7233  
334-263-6115 fax

March 26, 2018

Maria L. Catledge  
Director, Operational Division  
Examiners of Public Accounts  
State of Alabama  
Post Office Box 302251  
Montgomery, AL 36130-2251

Dear Ms. Catledge,

Please find the following responses to the significant and prior significant issues outlined in your report dated March 23, 2018.

**Significant Issue 2018-01**

The Board is currently working with the SAVE program to finalize the registration process and this should be complete by the Sunset Hearing scheduled for May 2018.

**Prior Significant Issue 2014-01**

Act # 2011-069 (Sunset Legislation) amended the structure of the Board for each member to be appointed to represent each Congressional District. The Board is comprised of five massage therapists and two consumers. With this change, the Board, Executive Director and Governor's Appointment Secretary(s) have struggled with obtaining candidates that fulfill the Congressional District requirement, particularly with two consumer positions. If this requirement were removed, the Board could recruit candidates that could fulfill the geographical requirements needed to adequately serve the entire state. Massage Therapy is a profession that has grown tremendously but still mainly exists in heavily populated areas across the state. The current members of the Board have been extremely dedicated in continuing to serve while we try to remedy this issue to the best of all involved.

**Prior Significant Issue 2011-02**

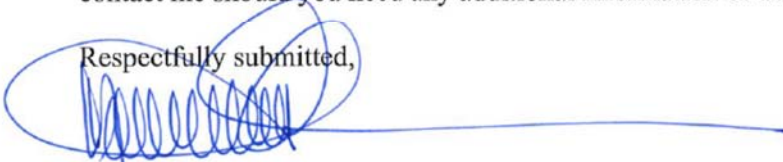
The staff continues to work on this issue to ensure that all information is correct and posted in a timely manner. New notifications are now in place as reminders to eliminate this finding.

**Prior Significant Issues 2007-01**

The staff has obtained all updated applications with the required social security numbers of those responsible for signing on behalf of the massage therapy school. Updated forms are available on the web site but in several occasions, old forms were submitted to the Board office. This significant issue is now resolved.

Thank you for your assistance and cooperation during this audit and please do not hesitate to contact me should you need any additional information or documentation.

Respectfully submitted,



Keith E. Warren  
*Executive Director*