

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE H. PROFESSIONS RELATED TO CERTAIN TYPES OF THERAPY

CHAPTER 455. MASSAGE THERAPY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 455.001. DEFINITIONS. In this chapter:

Text of subdivision effective until September 01, 2017

(1) "Department" means the Department of State Health Services.

Text of subdivision effective on September 01, 2017

(1) "Commission" means the Texas Commission of Licensing and Regulation.

Text of subdivision effective on September 01, 2017

(1-a) "Department" means the Texas Department of Licensing and Regulation.

Text of subdivision effective until September 01, 2017

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Text of subdivision effective on September 01, 2017

(2) "Executive director" means the executive director of the department.

(3) "Instructor" means a person who instructs a student in any section of the course of instruction required for a massage therapist license.

(4) "Internship program" means a program supervised by a massage therapy instructor in which a student provides massage therapy to the public.

(5) "Massage establishment" means a place of business that advertises or offers massage therapy or other massage services. The term includes a place of business that advertises or offers any service described by a derivation of the terms "massage therapy" or "other massage services."

(6) "Massage school" means an entity that:

(A) teaches at a minimum the course of instruction required for a massage therapist license; and

(B) has at least two instructors.

(7) "Massage therapist" means a person who practices or administers massage therapy or other massage services to a client for compensation. The term includes a licensed massage therapist, therapeutic massage practitioner, massage technician, masseur, masseuse, myotherapist, body massager, body rubber, or any derivation of those titles.

(8) "Massage therapy" means the manipulation of soft tissue by hand or through a mechanical or electrical apparatus for the purpose of body massage and includes effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics. The terms "massage," "therapeutic massage," "massage technology," "myotherapy," "body massage," "body rub," or any derivation of those terms are synonyms for "massage therapy."

(9) "Massage therapy instructor" means a licensed massage therapist who provides to one or more students instruction approved by the department in massage therapy.

(10) "Sexually oriented business" has the meaning assigned by Section [243.002](#), Local Government Code, unless another meaning applies under local law.

(11) "Other massage services" include any services offered or performed for compensation at a massage establishment that involve physical contact with a client, and may include the use of oil, lubricant, salt glow, a heat lamp, a hot and cold pack, or a tub, shower, jacuzzi, sauna, steam, or cabinet bath.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.239, eff. September 1, 2017.

Sec. 455.002. MASSAGE THERAPY AS HEALTH CARE SERVICE. (a) Massage therapy constitutes a health care service if the massage

therapy is for therapeutic purposes. Massage therapy does not constitute the practice of chiropractic.

(b) In this chapter, therapy or therapeutic procedures do not include:

(1) the diagnosis or treatment of illness or disease;
or

(2) a service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 455.003. PRACTICES INCLUDED IN MASSAGE THERAPY. Massage therapy includes the use of oil, salt glows, heat lamps, hot and cold packs, and tub, shower, or cabinet baths.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 455.004. APPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) a person licensed in this state as a physician, chiropractor, occupational therapist, physical therapist, nurse, cosmetologist, or athletic trainer or as a member of a similar profession subject to state licensing while the person is practicing within the scope of the license;

(2) a school approved by the Texas Education Agency or otherwise approved by the state; or

(3) an instructor otherwise approved by the state to teach in an area of study included in the required course of instruction for issuance of a massage therapist license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 2, eff. September 1, 2005.

Sec. 455.005. EFFECT ON LOCAL LAW. (a) Except as provided by Subsection (b), this chapter supersedes any regulation adopted by a political subdivision of this state relating to the licensing or regulation of massage therapists.

(b) This chapter does not affect a local regulation that:

(1) relates to zoning requirements or other similar regulations for massage establishments;

(2) authorizes or requires an investigation into the background of an owner or operator of, or an investor in, a massage establishment; or

(3) does not relate directly to the practice of massage therapy as performed by a licensed massage therapist, including a regulation related to a license holder listed in Section 455.004, while the therapist:

(A) performs under the applicable licensing law; and

(B) works with a licensed massage therapist.

(c) Except as provided by Chapter 243, Local Government Code, a political subdivision may not adopt a regulation of the type described by Subsection (b) that is more restrictive for massage therapists or massage establishments than for other health care professionals or establishments.

(d) This chapter may not be construed to limit a municipality's authority to regulate establishments that offer bathing or showering services.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 3, eff. September 1, 2005.

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of section effective until September 01, 2017

Sec. 455.051. GENERAL RULEMAKING AUTHORITY. The executive commissioner shall adopt rules consistent with this chapter as necessary for the performance of duties under this chapter.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(1), eff. September 1, 2017.

Sec. 455.052. RULES REGARDING MASSAGE ESTABLISHMENTS. Rules adopted under this chapter relating to a massage establishment must contain minimum standards for:

- (1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;
- (2) the qualifications of professional personnel;
- (3) the supervision of professional personnel;
- (4) the equipment essential to the health and safety of massage establishment personnel and the public;
- (5) the sanitary and hygienic conditions of a massage establishment;
- (6) the provision of massage therapy or other massage services by a massage establishment;
- (7) the records kept by a massage establishment;
- (8) the organizational structure of a massage establishment, including the lines of authority and the delegation of responsibility;
- (9) fire prevention and safety in a massage establishment;
- (10) the inspection of a massage establishment; and
- (11) any other aspect of the operation of a massage establishment necessary to protect massage establishment personnel or the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Text of section effective until September 01, 2017

Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules adopted under this chapter relating to a massage school must contain minimum standards for:

- (1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;
- (2) the qualifications of professional personnel;
- (3) the supervision of professional personnel;
- (4) the equipment essential to the education, health, and safety of students, massage school personnel, and the public;
- (5) the sanitary and hygienic conditions of a massage school;
- (6) the provision of massage therapy or other massage services by a massage school or student;
- (7) the maximum number of hours a student may accumulate in a massage school's internship program before the student is required to be licensed under this chapter;
- (8) the educational and clinical records kept by a massage school;
- (9) the organizational structure of a massage school, including the lines of authority and the delegation of responsibility;
- (10) fire prevention and safety in a massage school;
- (11) the massage school's curriculum and educational material;
- (12) massage school inspections; and
- (13) any other aspect of the operation of a massage school that the executive commissioner considers necessary to protect students, massage school personnel, or the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.241, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules adopted under this chapter relating to a massage school must contain minimum standards for:

- (1) the issuance, denial, renewal, suspension,

revocation, or probation of a license under this chapter;

- (2) the qualifications of professional personnel;
- (3) the supervision of professional personnel;
- (4) the equipment essential to the education, health, and safety of students, massage school personnel, and the public;
- (5) the sanitary and hygienic conditions of a massage school;
- (6) the provision of massage therapy or other massage services by a massage school or student;
- (7) the maximum number of hours a student may accumulate in a massage school's internship program before the student is required to be licensed under this chapter;
- (8) the educational and clinical records kept by a massage school;
- (9) the organizational structure of a massage school, including the lines of authority and the delegation of responsibility;
- (10) fire prevention and safety in a massage school;
- (11) the massage school's curriculum and educational material;
- (12) massage school inspections; and
- (13) any other aspect of the operation of a massage school that the commission considers necessary to protect students, massage school personnel, or the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.241, eff. September 1, 2017.

Sec. 455.054. RULES REGARDING MASSAGE THERAPISTS. Rules adopted under this chapter relating to a massage therapist must contain minimum standards for:

- (1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;
- (2) the qualifications of a massage therapist;

(3) the sanitary and hygienic conditions of the physical environment in which a massage therapist practices massage therapy;

(4) the records kept by a massage therapist;

(5) the inspection of the records, equipment, and sanitary and hygienic conditions of the physical environment used by a massage therapist in practicing massage therapy; and

(6) any other aspect of the practice of a massage therapist necessary to protect the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Sec. 455.055. RULES REGARDING MASSAGE THERAPY INSTRUCTORS. Rules adopted under this chapter relating to a massage therapy instructor must contain minimum standards for:

(1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;

(2) the qualifications of a massage therapy instructor;

(3) the supervision of a student by a massage therapy instructor;

(4) the maximum number of hours a student may accumulate in an internship program under the supervision of a massage therapy instructor before the student is required to be licensed under this chapter;

(5) the equipment essential to the education, health, and safety of students and the public;

(6) the sanitary and hygienic conditions of the physical environment in which a massage therapy instructor teaches;

(7) the provision of massage therapy or other massage services by a student or a massage therapy instructor;

(8) the educational and clinical records kept by a massage therapy instructor;

(9) the curriculum taught and educational material used by a massage therapy instructor;

(10) the inspection of the records, equipment, and physical environment of a massage therapy instructor; and

(11) any other aspect of a massage therapy instructor's instruction or operation of any portion of the course of instruction required for a massage therapist license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Text of section effective until September 01, 2017

Sec. 455.056. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The executive commissioner may not adopt rules restricting advertising or competitive bidding by a person licensed under this chapter except to prohibit false, misleading, or deceptive practices.

(b) In rules to prohibit false, misleading, or deceptive practices, the executive commissioner may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a licensed person's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the licensed person; or

(4) restricts the licensed person's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.219(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(2), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.057. CONTINUING EDUCATION. The executive commissioner shall provide for the recognition, preparation, or

administration of continuing education programs for persons licensed under this chapter. A licensed person must participate in the programs to the extent required by the executive commissioner to keep the person's license.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.219(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.077, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(3), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.058. FEES. The executive commissioner shall set fees for the issuance or renewal of a license under this chapter in amounts designed to allow the department to recover from the license holders all of the direct and indirect costs to the department in administering and enforcing this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.078, eff. April 2, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(4), eff. September 1, 2017.

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER C. POWERS AND DUTIES OF DEPARTMENT

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER C. POWERS AND DUTIES

Text of section effective until September 01, 2017

Sec. 455.101. GENERAL DUTIES OF DEPARTMENT. The department shall:

- (1) administer this chapter;
- (2) investigate a person who may be engaging in a

practice that violates this chapter;

(3) regulate the number and content of school hours provided by a massage school or a massage therapy instructor; and

(4) prepare and administer a state examination under this chapter.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.243, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.101. GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b) The department shall:

(1) investigate a person who may be engaging in a practice that violates this chapter;

(2) regulate the number and content of school hours provided by a massage school or a massage therapy instructor; and

(3) prepare and administer a state examination under this chapter.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.243, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) The department may enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) A memorandum must:

(1) be adopted by the executive commissioner by rule; and

(2) limit the total amount of the fees charged by the department and the Texas Education Agency for licensing a massage school to an amount equal to the amount of the fees the department

would charge for licensing the massage school in the absence of the memorandum.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 5, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.079, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.244, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) The commission may enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) A memorandum must:

- (1) be adopted by the commission by rule; and
- (2) limit the total amount of the fees charged by the department and the Texas Education Agency for licensing a massage school to an amount equal to the amount of the fees the department would charge for licensing the massage school in the absence of the memorandum.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 5, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.079, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.244, eff. September 1, 2017.

Sec. 455.104. INSPECTIONS; INVESTIGATIONS. (a) The department, its authorized representative, or a peace officer may enter the premises of an applicant for a license or a license holder at:

- (1) reasonable times to conduct an inspection

incidental to the issuance of a license; and

(2) other times that the department or peace officer considers necessary to ensure compliance with this chapter and the rules adopted under this chapter.

(b) A peace officer appointed or employed by a law enforcement agency of a political subdivision of this state may enter the premises of a massage establishment to ensure compliance with this chapter and rules adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. 2644), Sec. 1, eff. September 1, 2007.

Sec. 455.105. REGISTRY. (a) The department shall annually prepare a registry of licensed massage therapists.

(b) The department shall make the registry available to the public, license holders, other state agencies, and peace officers.

Added by Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 7, eff. September 1, 2005.

SUBCHAPTER D. LICENSING

Sec. 455.151. LICENSE REQUIRED. (a) Unless the person is exempt from the licensing requirement, a person may not act as a massage therapist, massage school, massage therapy instructor, or massage establishment unless the person holds an appropriate license issued under this chapter.

(b) Unless the person is exempt from the licensing requirement, a person may not represent that the person is a massage therapist, massage school, massage therapy instructor, or massage establishment unless the person holds an appropriate license under this chapter.

(c) A person may not for compensation perform or offer to perform any service with a purported health benefit that involves physical contact with a client unless the person:

(1) holds an appropriate license issued under this chapter; or

(2) is licensed or authorized under other law to perform the service.

Text of subsection effective until September 01, 2017

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by Subsection (c). The executive commissioner may adopt rules governing a license issued under this subsection.

Text of subsection effective on September 01, 2017

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by Subsection (c). The commission may adopt rules governing a license issued under this subsection.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 9, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. [2644](#)), Sec. 2, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.080, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.245, eff. September 1, 2017.

Sec. 455.152. INELIGIBILITY FOR LICENSE. (a) A person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense involving prostitution or another sexual offense.

(b) A person convicted of a violation of this chapter is ineligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor until the

fifth anniversary of the date of the conviction.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 9, eff. September 1, 2005.

Sec. 455.1525. CRIMINAL BACKGROUND CHECKS. (a) On receipt of an application for a license under this chapter, the department shall conduct a criminal background check on the applicant.

(b) An applicant is not eligible for a license under this chapter if the applicant, in the five years preceding the date of the application, has been finally convicted of a misdemeanor involving moral turpitude or a felony.

Added by Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 10, eff. September 1, 2005.

Text of section effective until September 01, 2017

Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a license under this chapter must:

(1) submit an application on a form provided by the department; and

(2) include with the application the application fee set by the executive commissioner by rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 11, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.081, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.246, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a license under this chapter must:

(1) submit an application in the manner and on a form

prescribed by the executive director; and

(2) include with the application the application fee set by the commission by rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 11, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.081, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.246, eff. September 1, 2017.

Sec. 455.154. GENERAL PROVISIONS RELATING TO LICENSES. (a) The holder of a license may exercise all professional rights, honors, and privileges relating to the practice of massage therapy.

(b) A license is the property of the department and must be surrendered on demand.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 11, eff. September 1, 2005.

Sec. 455.155. LICENSE EXEMPTION. (a) Section 455.151 does not apply to an establishment or person that:

(1) holds a license, permit, certificate, or other credential issued by this state under another law; and

(2) offers or performs massage therapy under the scope of that credential.

(b) A licensed massage therapist who practices as a solo practitioner is not required to hold a license as a massage establishment.

(c) A place of business is not required to hold a license under this chapter if:

(1) the place of business is owned by the federal government, the state, or a political subdivision of the state;

(2) at the place of business, a licensed massage therapist practices as a solo practitioner and:

(A) does not use a business name or assumed name;
or

(B) uses a business name or an assumed name and provides the massage therapist's full legal name or license number in each advertisement and each time the business name or assumed name appears in writing;

(3) at the place of business, an acupuncturist, athletic trainer, chiropractor, cosmetologist, midwife, nurse, occupational therapist, perfusionist, physical therapist, physician, physician assistant, podiatrist, respiratory care practitioner, or surgical assistant licensed or certified in this state employs or contracts with a licensed massage therapist to provide massage therapy as part of the person's practice; or

(4) at the place of business, a person offers to perform or performs massage therapy:

(A) for not more than 72 hours in any six-month period; and

(B) as part of a public or charity event, the primary purpose of which is not to provide massage therapy.

(d) A sexually oriented business may not:

(1) hold a license under this chapter; or

(2) operate as a massage establishment under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. 2644), Sec. 3, eff. September 1, 2007.

Sec. 455.156. LICENSE REQUIREMENTS FOR MASSAGE THERAPIST.

(a) The department shall issue a license to each qualified applicant who applies for a massage therapist license.

(b) An applicant for a license under this section must be an individual and:

(1) present evidence satisfactory to the department that the person has satisfactorily completed massage therapy

studies in a 500-hour minimum, supervised course of instruction provided by a massage therapy instructor at a massage school, a licensed massage school, a state-approved educational institution, or any combination of instructors or schools, in which at least:

(A) 200 hours are taught by a licensed massage therapy instructor and dedicated to the study of massage therapy techniques and theory and the practice of manipulation of soft tissue, with at least 125 hours dedicated to the study of Swedish massage therapy techniques;

(B) 50 hours are dedicated to the study of anatomy;

(C) 25 hours are dedicated to the study of physiology;

(D) 50 hours are dedicated to the study of kinesiology;

(E) 40 hours are dedicated to the study of pathology;

(F) 20 hours are dedicated to the study of hydrotherapy;

(G) 45 hours are dedicated to the study of massage therapy laws and rules, business practices, and professional ethics standards;

(H) 20 hours are dedicated to the study of health, hygiene, first aid, universal precautions, and cardiopulmonary resuscitation (CPR); and

(I) 50 hours are spent in an internship program;

(2) pass the written state examination; and

(3) be at least 18 years of age.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.220(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. [2644](#)), Sec. 4, eff. September 1, 2007.

Text of section effective until September 01, 2017

Sec. 455.1565. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a licensing examination administered under this chapter, the department shall furnish the person with an analysis of the person's performance on the examination.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.219(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 12, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(5), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.1571. APPLICANT LICENSED IN ANOTHER JURISDICTION.

(a) The department may waive any prerequisite to obtaining a license for an applicant for licensing as a massage therapist or massage therapy instructor after reviewing the applicant's credentials and determining that the applicant holds a license or certificate of registration issued by another jurisdiction that has licensing or registration requirements substantially equivalent to

those of this state.

(b) The department may waive any prerequisite to obtaining a license for an applicant for licensing as a massage therapist or massage therapy instructor who holds a license or certificate of registration issued by another jurisdiction with which this state has a reciprocity agreement. The department may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.221(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 13, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(6), eff. September 1, 2017.

Sec. 455.1572. PROVISIONAL LICENSE. (a) The department may issue a provisional license to an applicant for licensing as a massage therapist or massage therapy instructor currently licensed or registered in another jurisdiction who seeks a license in this state and who:

(1) has been licensed or registered in good standing as a massage therapist or massage therapy instructor, as applicable, for at least two years in another jurisdiction, including a foreign country, that has licensing or registration requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department relating to the practice of massage therapy; and

(3) is sponsored by a person licensed by the department under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subsection would be a hardship to the

applicant.

Text of subsection effective until September 01, 2017

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for licensing. The department shall issue a license under this chapter to the provisionally licensed person if the person:

(1) is eligible for a license under Section [455.1571](#);

or

(2) passes the part of the examination under Section [455.101](#) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of massage therapy in this state and:

(A) the department verifies that the person meets the academic and experience requirements for licensing under this chapter; and

(B) the person satisfies any other licensing requirements under this chapter.

Text of subsection effective on September 01, 2017

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for licensing. The department shall issue a license under this chapter to the provisionally licensed person if the person:

(1) is eligible for a license under Section 51.404; or

(2) passes the part of the examination under Section [455.101](#) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of massage therapy in this state and:

(A) the department verifies that the person meets the academic and experience requirements for licensing under this chapter; and

(B) the person satisfies any other licensing requirements under this chapter.

(d) The department must approve or deny a provisionally licensed person's application for a license not later than the

180th day after the date the provisional license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

Text of subsection effective until September 01, 2017

(e) The executive commissioner by rule may establish a fee for a provisional license.

Text of subsection effective on September 01, 2017

(e) The commission by rule may establish a fee for a provisional license.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.221(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 13, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.082, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.247, eff. September 1, 2017.

Sec. 455.158. STUDENT EXEMPTION FROM LICENSING REQUIREMENTS. A student who provides massage therapy as part of an internship program or without compensation is exempt from licensing under this chapter if the student is enrolled in a state-approved course of instruction that consists of at least 500 hours.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 13, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.083, eff. April 2, 2015.

Sec. 455.159. STUDENT INTERNSHIP PROGRAM. (a) An internship program must:

(1) meet the qualifications established by the department;

(2) provide a student with a minimum of 40 hours of hands-on massage therapy experience; and

(3) be conducted on the school grounds or in a clinic or classroom setting provided by the massage school or massage therapy instructor.

(b) A student must complete the first 250 hours of required training at a massage school or with a massage therapy instructor before the student is eligible to enter an internship program.

(c) A student who is participating in an internship program must be under the supervision and direction of a massage therapy instructor during the hours that the student is working in the program.

(d) A student who is participating in an internship program may:

(1) make an appointment with a client;

(2) interview a client;

(3) provide massage therapy, including providing massage therapy for compensation in an amount set by the massage school or massage therapy instructor and paid to the school or instructor;

(4) collect and review a client evaluation with the student's supervisor; and

(5) perform other tasks necessary to the business of providing massage therapy to the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 14, eff. September 1, 2005.

Text of section effective until September 01, 2017

Sec. 455.160. LICENSE RENEWAL. (a) A person licensed under this chapter must periodically renew the person's license. The license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the department or by the late fee prescribed by this section.

(b) The department shall adopt a system under which licenses expire on various dates during the year. Fees must be prorated so

that a licensed person pays only for that part of the renewal period for which the license is issued until the expiration date of the license.

(c) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(e) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(f) A person whose license has been expired for one year or more may not renew the license. The person may obtain a license by complying with the requirements and procedures, including the examination requirements, for obtaining a new license.

(g) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

(h) On receipt of a request for a renewal of a license issued under this chapter, the department may conduct a criminal background check under Section [455.1525](#).

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 15, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.084, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.248, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.249,

eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(7), eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.160. LICENSE TERM AND RENEWAL. (a) A license issued under this chapter is valid for two years. A license holder must renew the license biennially.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 1.298(7), eff. September 1, 2017.

(h) On receipt of a request for a renewal of a license issued under this chapter, the department may conduct a criminal background check under Section [455.1525](#).

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 15, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.084, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.248, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.249, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(7), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.161. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE PRACTITIONER. (a) A person who was registered or licensed in this state, moved to another state, and is currently registered or licensed and has been in practice in the other state for the two years preceding the date of application may obtain a license without reexamination.

(b) The person must pay to the department a fee that is equal to two times the normally required license renewal fee.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 15, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(8), eff. September 1, 2017.

SUBCHAPTER E. PRACTICE BY LICENSE HOLDERS

Sec. 455.201. REFERRAL FROM PHYSICIAN. A person issued a license may receive referrals from a physician to administer massage therapy.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 17, eff. September 1, 2005.

Sec. 455.202. PRACTICE BY MASSAGE ESTABLISHMENT. (a) A massage establishment may employ only licensed massage therapists to perform massage therapy or other massage services.

(b) A massage establishment may not:

(1) employ an individual who is not a United States citizen or a legal permanent resident with a valid work permit;

(2) employ a minor unless the minor's parent or legal guardian authorizes in writing the minor's employment by the establishment;

(3) allow a nude or partially nude employee to provide massage therapy or other massage services to a customer;

(4) allow any individual, including a client, student, license holder, or employee, to engage in sexual contact in the massage establishment; or

(5) allow any individual, including a student, license holder, or employee, to practice massage therapy in the nude or in clothing designed to arouse or gratify the sexual desire of any individual.

(c) A massage establishment shall:

(1) properly maintain and secure for each client the initial consultation documents, all session notes, and related billing records; and

(2) make available to the department on request the information kept as provided by Subdivision (1).

(d) For purposes of this section:

(1) "Nude" means a person who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts or any portion of the genitals or buttocks.

(2) "Sexual contact" includes:

(A) any touching of any part of the genitalia or anus;

(B) any touching of the breasts of a female without the written consent of the female;

(C) any offer or agreement to engage in any activity described in Paragraph (A) or (B);

(D) kissing without the consent of both persons;

(E) deviate sexual intercourse, sexual contact, sexual intercourse, indecent exposure, sexual assault, prostitution, and promotions of prostitution as described in Chapters 21, 22, and 43, Penal Code, or any offer or agreement to engage in such activities;

(F) any behavior, gesture, or expression that may reasonably be interpreted as inappropriately seductive or sexual;

or

(G) inappropriate sexual comments about or to a client, including sexual comments about a person's body.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 17, eff. September 1, 2005.

Sec. 455.203. PRACTICE BY MASSAGE SCHOOL OR INSTRUCTOR AT SCHOOL.

Text of subsection effective until September 01, 2017

(a) A massage school must meet the minimum standards of operation established by department rule.

Text of subsection effective on September 01, 2017

(a) A massage school must meet the minimum standards of operation established by commission rule.

Text of subsection effective until September 01, 2017

(b) An instructor must meet the minimum requirements established by department rule.

Text of subsection effective on September 01, 2017

(b) An instructor must meet the minimum requirements established by commission rule.

(c) A massage school or massage therapy instructor licensed under this chapter shall give each prospective student a notice that clearly states the number of course hours that the student must successfully complete before the student is eligible to hold a massage therapist license under this chapter.

(d) The notice under Subsection (c) must be given to the prospective student at a time and in a manner that provides the student with a sufficient opportunity to read the notice and, if necessary for understanding and clarity, discuss the notice with massage school officials or with the massage therapy instructor before:

- (1) the student signs an enrollment contract; and
- (2) the massage school or the massage therapy

instructor accepts the student in a course of study.

(e) The course of instruction in massage therapy provided by a licensed massage school is a postsecondary education program.

(f) A massage school that provides instruction to persons beyond the age of compulsory education is authorized to operate educational programs in massage therapy at the postsecondary level. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 18, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.085, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 482 (H.B. 1049), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.250, eff. September 1, 2017.

Sec. 455.204. DISPLAY OF LICENSE. (a) A person who holds a license shall publicly display the license as specified by the department.

(b) Each massage establishment must post in plain sight the license for each massage therapist who practices in the massage establishment.

(c) Each massage school, massage establishment, massage therapy instructor, or massage therapist shall present the person's license on the request of the department, an authorized representative of the department, or a peace officer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 19, eff. September 1, 2005.

Sec. 455.205. PROHIBITED PRACTICES. (a) A massage therapist may not perform massage therapy for compensation or without compensation at or for a sexually oriented business.

(b) A massage school or a massage therapy instructor may not require the successful completion of more course hours than the

number of hours required for licensing as a massage therapist under this chapter.

(c) A person who is not licensed under this chapter may not use the word "massage" on any form of advertising unless the person is expressly exempt from the licensing requirements of this chapter.

(d) A sexually oriented business may not use the word "massage" or "bath" on a sign or any form of advertising.

(e) A person advertising massage therapy or other massage services is presumed to be engaging in conduct regulated by this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 20, eff. September 1, 2005.

Sec. 455.206. ESTABLISHMENT CHANGE OF LOCATION PROHIBITED. A massage establishment may not change the location of the establishment without obtaining a new massage establishment license under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 21, eff. September 1, 2005.

SUBCHAPTER F. LICENSE DENIAL OR DISCIPLINARY PROCEDURES

Text of section effective until September 01, 2017

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. (a) The department may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;

(2) sells, barter, or offers to sell or barter a license;

(3) violates a rule adopted by the executive commissioner under this chapter;

(4) engages in unprofessional conduct as defined by department rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The department shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the department determines the person has practiced or administered massage therapy at or for a sexually oriented business.

(c) The department shall revoke the license of a person licensed as a massage school or massage establishment if the department determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea of nolo contendere or guilty to the offense, or a grant of deferred adjudication for the offense occurred on the premises of the school or establishment.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(c), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 23, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.086, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.251, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY

ACTION. (a) The commission or executive director may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;

(2) sells, barter, or offers to sell or barter a license;

(3) violates a rule adopted by the commission under this chapter;

(4) engages in unprofessional conduct as defined by commission rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The commission or executive director shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the commission or executive director determines the person has practiced or administered massage therapy at or for a sexually oriented business.

(c) The commission or executive director shall revoke the license of a person licensed as a massage school or massage establishment if the commission or executive director determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea of nolo contendere or guilty to the offense, or a grant of deferred adjudication for the offense occurred on the premises of the school or establishment.

Added by Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(c), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 23, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.086, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.251, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.252. HEARING ON DENIAL OR DISCIPLINARY ACTION.

(a) A person whose application for a license is denied, whose license is suspended or revoked, or who has been reprimanded is entitled to a hearing before the department if the person submits a written request to the department.

(b) A hearing under this subchapter is a contested case under Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(d), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 24, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(9), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.253. PROBATION. The department may place on probation a person, including a massage school, massage therapy instructor, or massage establishment, whose license is suspended. If a license suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the

department; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.222(e), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 25, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(10), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.254. EMERGENCY SUSPENSION. (a) The department shall temporarily suspend the license of a license holder if the department determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 26, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(11), eff. September 1, 2017.

SUBCHAPTER G. ADMINISTRATIVE PENALTY

Text of section effective until September 01, 2017

Sec. 455.301. IMPOSITION OF ADMINISTRATIVE PENALTY. The department may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(12), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.302. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts made to correct the violation; and
- (5) any other matter that justice may require.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.252, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts made to correct the violation; and
- (5) any other matter that justice may require.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.252, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.253, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the department determines that a violation occurred, the department shall give written notice of the violation to the person on whom the administrative penalty may be imposed. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(13), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 455.303, the person may:

- (1) accept the department's determination and recommended administrative penalty; or
- (2) make a written request for a hearing on that

determination.

(b) If the person accepts the department's determination, the department by order shall approve the determination and require the person to pay the recommended penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 27, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.087, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(14), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.305. HEARING ON DEPARTMENT DETERMINATION. (a) If the person makes a timely request for a hearing, the department shall:

(1) set a hearing;

(2) give written notice of the hearing to the person;

and

(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue to the department a proposal for decision as to the occurrence of the violation, and, if the examiner determines a penalty is warranted, the amount of the proposed administrative penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 28, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.088, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(15), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.306. DECISION BY DEPARTMENT. (a) Based on the findings of fact, conclusions of law, and recommendations of the hearings examiner, the department by order may determine that:

(1) a violation occurred and may impose an administrative penalty; or

(2) a violation did not occur.

(b) The department shall give notice of the order to the person. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty imposed; and

(3) a statement of the right of the person to judicial review of the order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 29, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.089, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.090, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(48), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the order issued under Section 455.306 becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that is:

(i) for the amount of the penalty; and

(ii) effective until judicial review of the order is final; or

(2) request the court to stay the enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the department by certified mail.

(c) If the department receives a copy of an affidavit under Subsection (b)(2), the department may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and stay the enforcement of the penalty on finding that the alleged facts are true. The person who files the affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(17), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.308. DETERMINATION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(18), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.309. REMITTANCE OF PENALTY AND INTEREST. (a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person by the department if the person paid the penalty under Section 455.307(a)(2); or

(2) if the person paid the penalty under Section 455.307(b)(1)(A) or posted a supersedeas bond, order the department to:

(A) execute a complete release of the escrow account or bond, as appropriate, if the penalty is not imposed; or

(B) release the escrow account or bond, as appropriate, after the reduced penalty has been paid from the account or by the person.

(b) The interest paid under Subsection (a)(1) is accrued at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(19), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.310. COLLECTION OF PENALTY. (a) In this section,

"reasonable expenses and costs" includes expenses incurred by the department and the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The department may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the department requiring the payment of expenses and costs is final. The department may refer the matter to the attorney general for collection of expenses and costs.

(c) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

(d) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this chapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the department, reasonable expenses and costs.

(e) Expenses and costs collected under this section shall be deposited in the state treasury to the credit of a special account the amounts in which may be appropriated only to the department. Section [403.095](#), Government Code, does not apply to the account. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 30, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.091, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.298(20), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 455.311. ADMINISTRATIVE PROCEDURE. A proceeding to

assess an administrative penalty under this chapter is subject to Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(21), eff. September 1, 2017.

SUBCHAPTER H. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 455.351. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The attorney general, a district or county attorney, a municipal attorney, or the department may institute an action for injunctive relief to restrain a violation by a person who:

(1) appears to be in violation of or threatening to violate this chapter or a rule adopted under this chapter; or

(2) is the owner or operator of an establishment that offers massage therapy or other massage services regulated by this chapter and is not licensed under this chapter.

(b) The attorney general, a district or county attorney, a municipal attorney, or the department may institute an action to collect a civil penalty from a person who appears to be in violation of this chapter or a rule adopted under this chapter. The amount of a civil penalty shall be not less than \$1,000 or more than \$10,000 for each violation.

(c) Each day a violation occurs or continues to occur is a separate violation.

(d) An action filed under this section by the attorney general or the department must be filed in a district court in Travis County or the county in which the violation occurred.

(e) The attorney general, district and county attorney, municipal attorney, and the department may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(f) A civil penalty recovered in an action by the attorney general or the department under this section shall be deposited in the state treasury.

(g) In an injunction issued under this section, a court may include reasonable requirements to prevent further violations of this chapter.

(h) Notwithstanding Section [22.004](#), Government Code:

(1) a person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order entered in a suit brought under this subchapter;

(2) not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter; and

(3) if an appeal is not taken by a party temporarily enjoined under this article, the parties are entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.

(i) In this section:

(1) "Operator" means a person who is supervising a massage establishment or massage school at the time a violation occurs or the establishment or school is inspected. If no person is supervising, then any employee, contractor, or agent of the owner who is present at the establishment or school is the operator.

(2) "Owner" includes a person:

(A) in whose name a certificate of occupancy has been issued for a massage establishment or massage school and any person having control over that person; or

(B) who operates a massage establishment or massage school under a lease, operating agreement, or other arrangement.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 31, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. [2644](#)), Sec. 5, eff. September 1, 2007.

Sec. 455.352. CRIMINAL PENALTY. (a) A person commits an offense if the person is required to be licensed under this chapter

and the person:

(1) knowingly violates Section [455.151](#), [455.159](#), [455.202\(b\)](#), [455.203\(a\)](#) or (c), [455.204\(b\)](#) or (c), or [455.205\(b\)](#), (c), or (d); or

(2) collects a fee or any other form of compensation for massage therapy without being licensed under this chapter.

(a-1) A person commits an offense if the person is required to be licensed under this chapter and the person knowingly violates Section [455.205\(a\)](#). An offense under this subsection is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this subsection, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this subsection, the offense is a state jail felony.

(b) An owner or operator of a massage establishment commits an offense if the person knowingly violates Section [455.151\(a\)](#), [455.155\(d\)](#), [455.202\(a\)](#), [455.204\(b\)](#) or (c), or [455.205\(d\)](#). An offense under this subsection is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this subsection, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this subsection, the offense is a state jail felony.

(c) An owner or operator of a massage school commits an offense if the person knowingly violates Section [455.151\(a\)](#), [455.159](#), [455.203\(a\)](#) or (c), [455.204\(b\)](#) or (c), or [455.205\(b\)](#), (c), or (d).

(d) Except as provided by Subsections (a-1), (b), and (e), an offense under this section is a Class C misdemeanor.

(e) If it is shown at the trial of an offense under this section that the defendant has been previously convicted of an offense under this section, the offense is a Class A misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1300 (H.B. [2696](#)), Sec. 32, eff. September 1, 2005.

Sec. 455.353. ENFORCEMENT BY PEACE OFFICERS. A peace officer of this state, including a peace officer employed by a political subdivision of the state, may enforce this chapter. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.