

Report on the

Alabama Board of Massage Therapy

Montgomery, Alabama



Department of Examiners of Public Accounts

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Rachel Laurie Riddle, Chief Examiner



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June 15, 2022

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 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 Board of Massage Therapy, in addition to information obtained from other sources.

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

Sincerely,

A handwritten signature in black ink that reads "Rachel Laurie Riddle". The signature is written in a cursive style.

Rachel Laurie Riddle
Chief Examiner

Examiner
Troy A. Eastman

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PROFILE

Purpose/Authority

The Board of Massage Therapy was created in 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*, Section 34-43-1 through 34-43-21.

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

Act 2022-408, Acts of Alabama, amended the Board's statutes to remove the requirement that no two board members from the same congressional district serve at the same time; require massage therapy establishments and schools to carry liability insurance; prohibit the advertising of services on sexually explicit websites or online platforms; revise the requirements for licensure as a massage therapist and establishment licensees; and to revise fees and fines.

<u>Characteristics</u>	
Members and Selection	Seven members appointed by the Governor, subject to confirmation by the Senate. <i>Code of Alabama 1975</i> , Section 34-43-6(b)
Term	Four-year staggered terms 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)
Qualifications	<ul style="list-style-type: none">• United States Citizen.• Alabama resident at least two years prior to appointment.• High School graduate or equivalent.• Five members must be licensees of the Board.• Two public members. Each Board member shall be selected upon personal merit and qualifications, not per membership or affiliation with an Association. <i>Code of Alabama 1975</i> , Section 34-43-6(b)

Consumer Representation	<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>Two consumer members currently serving.</p> <p><i>Code of Alabama 1975, Section 34-43-6(b)</i></p>
Racial Representation	<p>No statutory requirement.</p> <p>Two black members currently serving.</p>
Geographical Representation	<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>
Other Representation	<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>
Compensation	<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>
Attended Board Member Training	<p>Executive Director Five board members Ten Warren & Co. employees</p>
<u>Operations</u>	
Administrator	<p>The Board contracts with Warren & Company Inc. for management services and office space. The current annual contract amount is \$132,000 and expires September 30, 2022. Keith Warren, president of Warren & Company Inc., serves as the Executive Director.</p> <p><i>Code of Alabama 1975, Section 34-43-6(i)</i></p>

Location	2777 Zelda Road Montgomery, AL 36106 Office hours: M-F 8:30 – 4:30
Employees	The Board employs one part-time retired state employee as an investigator.
Legal Counsel	Matt Bledsoe, Assistant Attorney General, Attorney General's Office.
Subpoena Power	None except as provided by the Administrative Procedure Act, <i>Code of Alabama 1975</i> , Section 41-22-12 for hearings and contested cases.
Internet Presence	http://www.almtbd.alabama.gov Information available includes: <ul style="list-style-type: none"> • Home • Board • Fees • Law & Regulations • Licensure Requirements & Search • Forms • Calendar • Minutes • Disciplinary Actions • Contact
<u>Financial</u>	
Source of Funds	Licensing fees, fines, and penalties.
State Treasury	Yes, Special Revenue Fund 0920 <i>Code of Alabama 1975</i> , Section 34-43-14(c)
Required Distributions	No required distributions.
Unused Funds	The Board retains unused funds at fiscal year-end.

Licensure

<p>Licensees</p>	<p>As of February 25, 2022</p> <table border="1" data-bbox="659 346 1198 537"> <tr> <td>Massage Therapists</td> <td>2,047</td> </tr> <tr> <td>Establishments</td> <td>633</td> </tr> <tr> <td>Instructions</td> <td>299</td> </tr> <tr> <td>Schools</td> <td>17</td> </tr> <tr> <td>Total</td> <td>2,996</td> </tr> </table> <p><i>Source:</i> Executive Director</p>	Massage Therapists	2,047	Establishments	633	Instructions	299	Schools	17	Total	2,996										
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<p>Licensure Qualifications</p>	<p>Massage Therapist</p> <ul style="list-style-type: none"> • Complete a minimum of 650 hours of instruction • Pass national certification exam • U.S. citizen or legally present • Criminal history check <p><i>Code of Alabama 1975</i>, Section 34-43-9 and 34-43-12(b)</p> <p>Establishments</p> <ul style="list-style-type: none"> • Pass an initial inspection. <p>Schools</p> <ul style="list-style-type: none"> • Approval of the Board. <p>Instructor</p> <ul style="list-style-type: none"> • Must be licensed massage therapists. <p><i>Administrative Rule 532-X-3(4), (5)</i></p>																				
<p>Examinations</p>	<p>The National Certification Board of Therapeutic Massage & 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, Mobile, and Dothan. Exam fees are paid directly to NCBTMB and MBLEX.</p> <table border="1" data-bbox="578 1654 1339 1879"> <thead> <tr> <th>2018</th> <th># Taken</th> <th># Passed</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>First Attempt</td> <td>168</td> <td>124</td> <td>74%</td> </tr> <tr> <td>Re-Exam</td> <td>45</td> <td>18</td> <td>40%</td> </tr> <tr> <td>Total</td> <td>213</td> <td>142</td> <td>67%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	2018	# Taken	# Passed	% Passed	First Attempt	168	124	74%	Re-Exam	45	18	40%	Total	213	142	67%				
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Reciprocity	<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><i>Code of Alabama 1975</i>, Section 34-43-9(b)</p> <p><i>Source:</i> Executive Director</p>																																																								
Renewals	<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><i>Code of Alabama 1975</i>, Section 34-43-13(a)</p> <p>Massage therapy schools register annually.</p>																																																								

	<p><i>Code of Alabama 1975</i>, Section 34-43-20(a)(3)</p> <p>Massage therapy instructors register one time. Every instructor that teaches 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><i>Code of Alabama 1975</i>, Section 34-43-20(b) <i>Administrative Rule 532-X-3-.05(9)(b)</i></p> <p>Online renewal is available. 85% online renewal.</p> <p><i>Source:</i> Executive Director</p>
Licensee Demographics	Data not collected by the Board.
Continuing Education	<p>Sixteen hours of continuing education is required to renew a massage therapist license to be completed within the 24 months preceding the renewal date.</p> <p><i>Code of Alabama 1975</i>, Section 34-43-21(a)</p>

SIGNIFICANT ISSUES

Significant Issue 2022-01 – The Board’s cash balances at the end of each fiscal year are declining. The cash balance at the end of fiscal year 2018 was \$131,361.36; \$73,431.04 at the end of fiscal year 2019; \$21,152.97 at the end of fiscal year 2020; and \$7,352.54 at the end of fiscal year 2021. According to the Executive Director, fund balances are declining due to Massage Therapy establishments and massage therapists not renewing their licenses during the pandemic. The Board has not increased fees since the agency was created in 1996.

Board’s Response – There are several factors that contributed to the declining fund balance. The pandemic did affect the receipt of license fees since massage establishments were closed as per the COVID-19 State of Emergency Proclamation. While establishments were not operating, license and renewal fees certainly were not being received. The other factor are expenses incurred while battling businesses that disguise themselves as massage therapy establishments while operating illegally promoting prostitution and trafficking humans through our state. Our investigator and inspector work extremely close with local, state, and federal law enforcement battling these businesses while the Board incurs the cost of travel, personnel costs, and legal costs to close these businesses and eliminate them from operating as massage therapy establishments. The Legislature did pass human trafficking laws in 2018 but did not provide any funding to the Board to assist in establishing the background checks and additional obligations to assist in battling this awful, illegal trade.

The Board was successful in passing legislation this year to significantly increase fines against these businesses as well as create inspection fees for businesses owned by out of state individuals to assist in covering the Board's financial obligations in battling these terrible businesses. The Board is promulgating these new rules currently and with full anticipation of eliminating this significant issue. The Board and staff greatly appreciate every Legislator that voted for this bill that was long overdue.

Significant Issue 2022-02 - Four of the five board members responding to the survey stated that the most significant issue facing the Massage Therapy Board is human trafficking. Act 2022-408 was passed in the 2022 legislative session to require massage therapy establishments and schools to carry liability insurance; prohibit massage therapists and establishments from advertising services on certain sexually explicit websites or online platforms that promotes prostitution, sexually explicit services, or human trafficking; and to substantially revise fees and fines.

Board's Response – Again, thank you for the passage of Act 2022-408 to assist us in battling human trafficking and prostitution.

STATUS OF PRIOR FINDINGS\SIGNIFICANT ISSUES

All prior findings\significant issues have been resolved, except for the following:

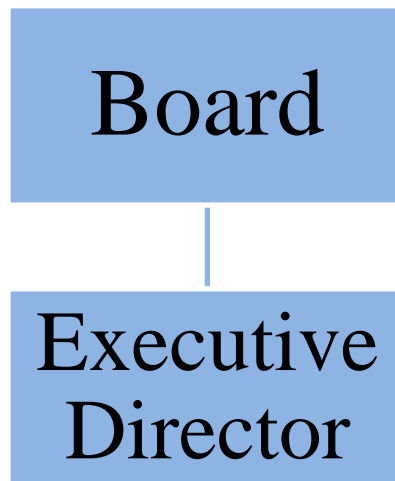
Prior Finding 2020-03 – Board members were not appointed to staggered terms as required by the *Code of Alabama 1975, Section 34-43-6(c)*. According to the statute, three board members' terms should expire September 30, 2021, and four members' terms should expire September 30, 2023. Currently, all members' terms expire September 30, 2023.

The *Code of Alabama 1975, Section 34-43-6(c)* states, "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 September 30."

Attorney General's Opinion 95-00169 states that appointment of Board members to terms other than those originally set forth by statute are not appropriate and defeat the Legislative intent of staggered terms.

Board's Response – The Executive Director is working with the Governor's Appointments Office to change these appointment dates to comply with the statute and will continue to ensure these terms are appointed in compliance with the statute.

ORGANIZATION



PERSONNEL

The Board has one part-time retired state employee. The Board contracts with Warren & Company Inc. for management services and office space. Keith Warren, president of Warren & Co., 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.

PERFORMANCE CHARACTERISTICS

Number of Licensees for the Past Four Fiscal Years

Type of License	FISCAL YEARS			
	2018	2019	2020	2021
Massage Therapist	2,049	1,836	2,641	2,112
Establishments	690	552	799	619
Instructors	17	17	17	17
Schools	299	299	299	299
Total	3,055	2,704	3,756	3,047

Source: Executive Director

Operating Disbursements per Licensee (FY 21) - \$60.86

Fines/Penalties as a Percentage of Operating Receipts

	FY 2021	FY 2020	FY 2019	FY 2018
Total Receipts	\$171,655.13	\$175,540.98	\$162,665.00	\$185,345.00
Fines	20,000.00	16,500.00	8,050.00	5,000.00
Percentage	11.65%	9.40%	4.95%	2.70%

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 not specifically notified of proposed changes.

Inspections

The *Code of Alabama 1975*, Section 34-43-7(5) authorizes the Board to inspect the business premises of any licensee during normal business hours. 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 250 inspections per year.

Schedule of Establishment Inspection				
Calendar Year	# Pass	# Fail	# Closed	Total Per Year
2018	66	78	58	202
2019	123	51	80	254
2020	117	42	104	263
2020	103	38	119	260

Source: Executive Director

COMPLAINT HANDLING

The *Code of Alabama 1975*, Section 34-43-15 authorizes the Board to investigate complaints. The Board’s *Administrative Rule* 532-X-5-.01 addresses the complaint and discipline process.

Initial Contact/Documentation	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.
Anonymous Complaints Accepted	No

Investigative Process / Probable Cause Determination	<p>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.</p> <p>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.</p>
Negotiated Settlements	Yes
Notification of Resolution to the Complainant	A letter is written to the complainant when the complaint has been resolved.

Source: Executive Director

FY/Number Received	Schedule of Complaint Resolutions Fiscal Years 2018 through 2021					
	FY Year/Number Resolved					Pending
	2018	2019	2020	2021	2022	
2018/21	17	4	-	-	-	-
2019/30		26	4	-	-	-
2020/38			20	17	-	1
2021/63				23	27	13
2022/18*					1	17

*As of February 22, 2022

Average Time to Resolve Complaints – 119 days

Disposition of Resolved Complaints

Number of Complaints	Resolution
55	Consent Agreement
22	Surrender of License
17	No Jurisdiction
14	Withdrawn
10	Cease and Desist
9	Came into Compliance/No Action Taken
7	Court or Other Prosecution
5	Letter of Concern Sent

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

Fees may also be found in the Board's Administrative Rule 532-X-3-.06

Fee Type/Purpose	Statute Authority	Amount Authorized	Amount Collected
Examination ⁽¹⁾	34-43-14-(a)(1)	\$160.00	-
Initial Massage Therapist License	34-43-14-(a)(2)	\$100.00	\$100.00
Biennial Massage Therapist Renewal	34-43-14-(a)(3)	\$100.00	\$100.00
Initial Application for Licensure or Re-submission of Initial Application	34-43-14-(a)(4)	\$25.00	\$25.00
Initial Establishment License	34-43-14-(a)(5)	\$100.00	\$100.00
Biennial Establishment License Renewal	34-43-14-(a)(6)	\$50.00	\$50.00
Massage Therapy School Initial Registration	34-43-14-(a)(7)	\$50.00	\$50.00
Massage Therapy School Renewal	34-43-14-(a)(8)	\$10.00	\$10.00
Massage Therapy Instructor Registration ⁽²⁾	34-43-14-(a)(9)	\$10.00	\$10.00

Reactivate Inactive License	34-43-14-(a)(10)	\$75.00	\$75.00
Late Fee	34-43-14-(a)(11)	\$25.00	\$25.00
Criminal History Check	34-43-14(a)(14)	Set by the Board	\$25.00
License Verification	34-43-14-(a)(12)	\$15.00	\$15.00
Duplicate License Certificate or Name Change on License Certificate	34-43-14-(a)(13)	\$10.00	\$10.00
Roster of License Massage Therapist	34-43-14-(b)	Cost Recovery	\$30.00
Roster of Approved Massage Therapy Schools	34-43-14-(b)	Cost Recovery	\$5.00
Copy Fee per Page	34-43-14-(b)	Cost Recovery	\$0.25
Postage and Handling	34-43-14-(b)	Cost Recovery	Postage plus \$1.50
Administrative Fine(s)	34-43-15(c)(2)	≤\$10,000	≤\$10,000.00

(1) Examination fee is paid directly to the company administering the examination.

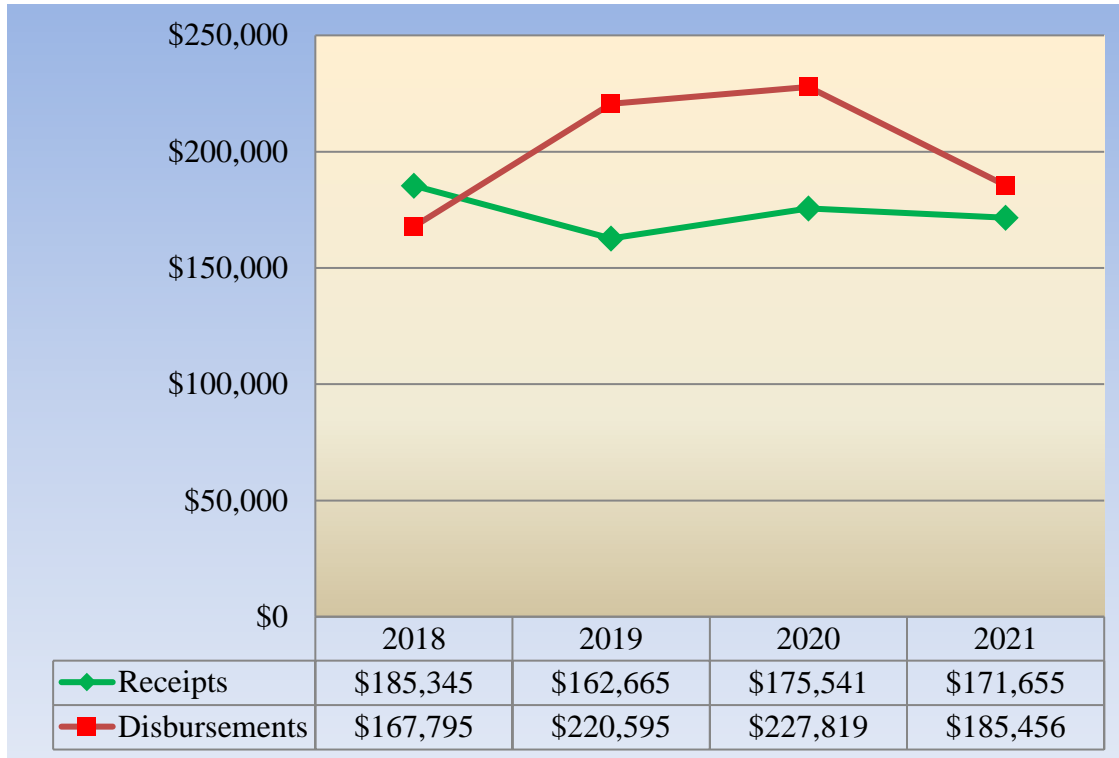
(2) One-time fee.

Schedule of Receipts, Disbursements and Balances

October 1, 2017 through September 30, 2021

	<u>2020-2021</u>	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>
<u>Receipts</u>				
Massage Therapist & Permit Fee	\$ 151,593.75	\$ 159,040.98	\$ 154,615.00	\$ 180,345.00
Fines and Penalties	20,000.00	16,500.00	8,050.00	5,000.00
Reimbursement Other Expense	61.38	-	-	-
Total	<u>171,655.13</u>	<u>175,540.98</u>	<u>162,665.00</u>	<u>185,345.00</u>
<u>Disbursements</u>				
Personnel Costs	32,024.16	31,406.41	27,694.89	-
Employee Benefits	2,463.19	2,418.20	2,128.41	-
Travel In-State	18,249.58	20,900.40	28,568.80	10,463.34
Travel Out-of-State	-	2,850.15	4,235.54	645.50
Rentals and Leases	391.68	391.68	391.68	364.32
Utilities & Communication	2,530.64	4,661.91	3,009.63	5,434.07
Professional Services	125,934.46	159,871.84	149,010.68	144,133.03
Supp, Mat. & Op. Exp.	3,861.85	5,318.46	4,758.83	6,754.72
Other Equipment Purchases	-	-	796.86	-
Total	<u>185,455.56</u>	<u>227,819.05</u>	<u>220,595.32</u>	<u>167,794.98</u>
Excess (Deficiency) of Receipts over Disbursements	(13,800.43)	(52,278.07)	(57,930.32)	17,550.02
Cash Balance at Beginning of Year	<u>21,152.97</u>	<u>73,431.04</u>	<u>131,361.36</u>	<u>113,811.34</u>
Cash Balances at End of Year	7,352.54	21,152.97	73,431.04	131,361.36
Reserve for Unpaid Obligations	<u>(6,920.00)</u>	<u>(18,882.81)</u>	<u>(300.00)</u>	<u>(6,357.60)</u>
Unobligated Cash Balance at Year End	<u>\$ 432.54</u>	<u>\$ 2,270.16</u>	<u>\$ 73,131.04</u>	<u>\$ 125,003.76</u>

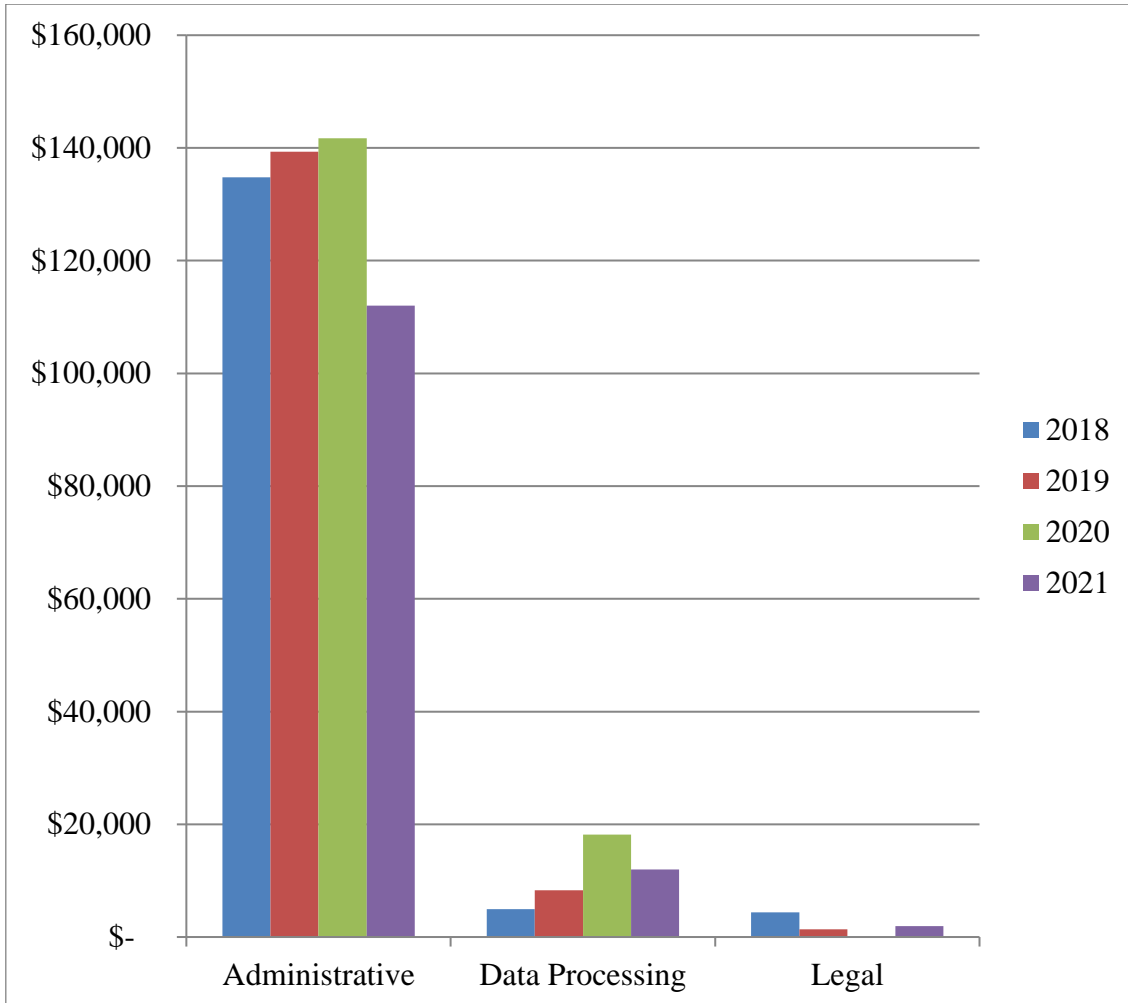
Operating Receipts vs. Operating Disbursements (Chart)



SUMMARY SCHEDULE OF PROFESSIONAL SERVICE DISBURSEMENTS*				
October 1, 2017 through September 30, 2021				
Type of Service	FY 2021	FY 2020	FY 2019	FY 2018
Administrative	\$ 112,023.45	\$ 141,688.78	\$ 139,344.80	\$ 134,764.83
Data Processing	11,976.01	18,183.06	8,315.88	4,973.20
Legal	1,935.00	-	1,350.00	4,395.00
Total	\$ 125,934.46	\$ 159,871.84	\$ 149,010.68	\$ 144,133.03

*Detailed information presented in the appendix

Professional Service Disbursement Chart



QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to all seven members of the Massage Therapy Board requesting participation in our survey. Five 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 Massage Therapy Board and how is the Board addressing these issues?

Board Member #1 – “The most significant issues are the unlicensed establishments, therapist, and the breaching of the rules and regulations. The Board is addressing these issues by inspections that leads to fees, fines and probation.”

Board Member #2 – “Human trafficking. We are doing inspections to check credentials of massage therapist and establishments.”

Board Member #3 – “Human trafficking and the board has joined with federal and state investigators to address that.”

Board Member #4 – “Human Trafficking and sexual misconduct of therapist. We are trying to update our legislation to give the board the ability to make changes to help these matters. Example increase fees and fines.”

Board Member #5 – “The wording in our Laws need to be updated. We have proposed new legislation and waiting to see if it makes it into Senate sessions and passed. Human Trafficking, we have 2 investigators working and updating laws to hopefully deter this behavior.”

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

Board Member #1 – “The prices for certain offenses need to increase.”

Board Member #2 – “We need to establish minimum fees for infractions and post on website so no negotiations can be obtained.”

Board Member #3 – “ALL who are involved with illegal administration of massage therapy should all be prosecuted not just the person giving the massage.”

Board Member #4 – “The laws need to be updated. They are very outdated.”

Board Member #5 – “Update wording throughout.”

3. Is the Board adequately funded?

No	4	80%
No Opinion	1	20%

Board Member Questionnaire

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

Yes	5	100%
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5. Is the Board adequately staffed?

Yes	5	100%
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6. Does the Board plan any significant changes in its operations?

Yes	2	40%
No	1	20%
Unknown	2	40%

7. Do you have any other comments you would like to make?

Board Member #1 – “Some offense should lead to license being revoked.”

Board Member #2 – “The Alabama Board of Massage works very hard to protect the public, licensed massage therapist and people with no voice.”

Board Member #3 – “Thank you!”

Board Member #4 – “We are trying to improve our outdated laws and increases fines and fees. We have proposed some changes to our legislation, just waiting on a sponsor to take it to legislation and get it approved.”

Board Member #5 – “none”

Licensee Questionnaire

A letter was sent to forty-one licensees requesting participation in our survey. Six participated in the survey. The percentages, where shown, are based on the number who responded to the question.

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

Yes	6	100%
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- 2. Do you think any of the Board's laws, rules, or policies are an unnecessary restriction on the practice of your profession?**

Yes	1	17%
No	4	66%
No Opinion	1	17%

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

No	4	66%
No Opinion	1	17%
Unknown	1	17%

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

Yes	2	33%
No	2	33%
No Opinion	1	17%
Unknown	1	17%

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

Yes	2	33%
No	4	67%

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

Yes	5	83%
No	1	17%

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

Yes	3	49%
No	1	17%
No Opinion	1	17%
Unknown	1	17%

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

Respondent #1 – “Keeping Unlicensed Individuals from practicing. Maintaining standards for our profession.”

Respondent #2 – “Non licensed persons practicing massage without proper training or a license. These people may injure, be inappropriate with clients, and are still able to make money off such behavior. I don't think the board is doing anything about it.”

Respondent #3 – “I'm not sure at this time.”

Respondent #4 – “The only issue I can think of is the possibility of bringing in insurance to the profession. I really do not need more oversight.”

Respondent #5 – “I think there are still massage individuals or companies that perform immoral and illegal services under the guise of registered massage therapist professionals.”

Respondent #6 – “I'm unaware at this time.”

9. Please provide comments regarding the Board, if any.

Respondent #1 – “My experiences with the Board have been timely and efficient.”

Respondent #2 – “I would like the board to be more accessible for therapist or anyone with concerns. People shouldn't have to repeatedly call and send emails, that IF receive a response may take months or no response at all.”

Respondent #3 – “I'd love to see a more streamlined process for becoming licensed. It should not be a 6-8 week process.”

Respondent #4 – “none.”

Respondent #5 – “too new to know.”

Respondent #6 – “The only thing I currently know is it took a while for my licensing to be finalized.”

Establishment Questionnaire

A letter was sent to fifty-nine establishments requesting participation in our survey. Nine participated in the survey. The percentages, where shown, are based on the number who responded to the question.

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

Yes	8	89%
No	1	11%

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

Yes	1	11%
No	8	89%

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

Yes	2	22%
No	7	78%

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

Yes	4	44.5%
No	4	44.5%
Unknown	1	11%

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

Yes	7	78%
No	1	11%
No Opinion	1	11%

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

Yes	8	89%
No Opinion	1	11%

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

Yes	5	56%
No Opinion	3	33%
Unknown	1	11%

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

Respondent #1 – “I think human trafficking and unlicensed therapist are a huge problem in Alabama. I would like to see more inspectors handling these situations. I think the Board is essential in keeping these concerns in check.”

Respondent #2 – “People practicing without license and abusing it for sexual acts. So yes, this profession needs to be watched and checked often. Checking business.”

Respondent #3 – “With the rise of sex trafficking, licensure is greatly needed to help minimize the disguise of sex predators as massage therapists. There should be a hands on practical to licensure in addition to written as well. I’m unaware of actions in this area.”

Respondent #4 – “Licensing individuals to maintain standards in our profession.”

Respondent #5 – “Not having massage as an insurance claim. I’m not sure what the Board is doing about it.”

Respondent #6 – “none.”

Respondent #7 – “lack of Certified Professionals, make it easier to be licensed.”

Respondent #8 – “I think all is going well.”

Respondent #9 – “Shortage of hands-on CEU classes within Alabama. AMTA requires membership for their CEU courses of which I’m not currently a member. I done most of my CEUs in classes outside the state.”

9. Please provide any comments regarding the Board.

Respondent #1 – “I have not had any issues with the Board. I have been in practice 11 years, and I have been satisfied with their work.”

Respondent #2 – “Yes, this profession needs a board. It needs more people in the field checking on business taking advantage of abuse. I paid a lot of money for my education for someone to practice it license free.”

Respondent #3 – “We need a strong, reliable massage board. It is pivotal to maintain licensure and a governing body in this industry. Eliminating a board would be greatly detrimental.”

Respondent #4 – “There were changes during Covid which I discovered when I went to renew my license. When I sent an email with questions, [REDACTED] responded quickly with an explanation.”

Respondent #5 – “Think the office staff could be a bit more ease to contact but I also understand the pandemic.”

Respondent #6 – “Would like to see more continued on hands, cost efficient continued education close to our establishment.”

Establishment Questionnaire

Respondent #7 – “they need to be more willing to work with establishments when there is a violation.”

Respondent #8 – “none.”

Respondent #9 – “I’d appreciate newsletters sent to my email to keep me informed and notifications of renewal deadlines for establishment licensing and certification.”

Complaint Questionnaire

A letter was sent to twenty-two complainants requesting participation in our survey. Seven participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. Was receipt of your complaint acknowledged?

Yes	7	100%
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2. Approximately how long after filing your complaint did the Board contact you?

Within 15 days	2	28%
Within 30 days	4	58%
More than 30 days	1	14%

3. Did the Board communicate the results of the investigation into your complaint to you?

Yes	5	72%
No	2	28%

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

Yes	4	58%
No	2	28%
Unknown	1	14%

5. Do you have any additional comments you would like to make?

Complainant #1 – “I have not heard anything else about this case or my complaint. I filed on 12/9/2020. I was contacted by a board investigator but have NOT heard anything since.”

Complainant #2 – “They didn't do anything except give them a fine (probably less than \$100). That massage therapy is still in business and thriving. They did absolutely nothing to help me.”

Complainant #3 – “Not sure who is referenced as "the Board". My complaint was handled by the state investigator that checks licenses.”

Complainant #4 – “I really appreciated the investigator that the board sent. He did an amazing job. I guess the guy who assaulted me can appeal in 3 years. Don't ever give him his license back ever; he is a predator.”

Complainant #5 – “██████████ was kind, informative, and diligent with his investigation. He followed up with me just as he said he would. He truly cares.”

Complainant #6 – “We provided extensive documentation regarding our complaint and received minimal response. The finding was that the business was no longer operating in the county, and we out of recourse.”

Complainant #7 – “Thank you for making this matter a priority.”

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) Each applicant for licensure shall be subject to a criminal history check. Refusal to consent to a criminal history check constitutes grounds for the board to deny the applicant's application for licensure.

(c) 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, pass the criminal history check pursuant to rules adopted by the board, pay the criminal history check fee, and pay the license fee. A license grants all professional rights, honors, and privileges relating to the practice of massage therapy.

(d) 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.

(e) 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; Act 2018-506, §11.)

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. Each applicant for renewal for licensure shall be subject to a criminal history check. Any license not renewed biennially on or before the anniversary date shall expire.

(b) Each licensee, upon application for renewal of a license, shall do both of the following:

(1) Submit evidence of satisfactory completion of the continuing education requirements contained in Section 34-43-21.

(2) Consent to a criminal history check. Refusal to consent to a criminal history check constitutes grounds for the board to deny the licensee's application for renewal of the license.

(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, passed a criminal history check pursuant to rules adopted by the board, paid the criminal history check fee, 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; Act 2018-506, §11.)

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.
 - (14) A fee, set by the board, for the criminal history check.
- (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; Act 2018-506, §11.*)

Section 34-43-15 Complaints; grounds for suspension; revocation, etc., of license; penalties; rulemaking authority.

- (a) Any person may file with the board a written and signed complaint regarding an allegation of impropriety by a licensee, establishment, or person. Complaints shall be made in the manner prescribed by the board. Complaints received by the board shall be referred to a standing investigative committee consisting of a board member, the Executive Director, the board attorney, and the board investigator. If no probable cause is found, the investigative committee may dismiss the charges and prepare a statement, in writing, of the reasons for the decision.
- (b) If probable cause is found, the board shall initiate an administrative proceeding. Upon a finding that the licensee has committed any of the following instances of misconduct, 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:

(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. As used in this subdivision, unprofessional conduct includes, but is not limited to, allowing any individual to remain in a massage therapy establishment overnight.

(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 engaged in or attempted to or offered to engage a client in sexual activity, including but not limited to genital contact, within the client-massage therapist relationship.

(10) The licensee has knowingly allowed the massage therapy establishment to be used as an overnight sleeping accommodation.

(11) 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.

(c)(1) A person governed by this chapter who has a reasonable belief that another massage therapist has engaged in or attempted to or offered to engage a client in sexual activity, as provided in subdivision (9) of subsection (b), shall inform the board in writing within 30 calendar days from the date the person discovers this activity. Upon finding that a person has violated this subsection, the board may do any of the following:

a. Impose an administrative fine of not more than ten thousand dollars (\$10,000).

b. Suspend or revoke the person's license to practice massage therapy.

(2) Upon a finding that a person has violated this subsection three or more times, the board shall impose a mandatory license suspension for a period of no less than three years and a fine of ten thousand dollars (\$10,000).

(d) 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.

(e) 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.

(f)(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.

(g) The board shall present any incident of misconduct to the local district attorney for review and appropriate action.

(h) The board may adopt rules to implement and administer this section.

(Acts 1996, No. 96-661, p. 1060, §15; Act 2000-704, p. 1430, §1; Act 2018-506, §11.)

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

Administrative	2018	2019	2020	2021
Accounting and Auditing				
Warren & Company, Inc	\$ 132,000.00	\$ 132,000.00	\$ 132,000.00	\$ 110,000.00
Advertising				
Legislative Services Agency	-	-	440.00	-
Comptroller Services				
Dept of Finance	535.08	489.85	872.99	1,041.00
Court Reporter Services				
Henderson & Associates	160.00	-	-	-
Court Services				
Carl Mike James	-	2,620.00	666.00	200.00
Cynthia Harris	100.00	-	-	-
Dennis H. Trammell	-	-	-	400.00
Education\Training Consultants				
AL Assoc. of Regulatory Boards	250.00	375.00	150.00	-
Dennis H. Trammell	-	81.20	-	-
Federation of State Massage	-	350.00	-	-
Michael Lance Gilliland	-	75.00	-	-
Interfund Contract Programs				
Dept of Finance	1,650.00	3,300.00	3,300.00	-
Mailing Services				
Dept of Finance	69.75	53.75	107.70	5.45
Managerial Services				
Business Systems & Consultants	-	-	4,152.09	-
Personnel Services				
Dept of Personnel	-	-	-	377.00
Administrative Total	134,764.83	139,344.80	141,688.78	112,023.45
Data Processing				
Data Processing Personnel Services				
Office Of Information Tech	3,131.00	3,449.60	3,628.30	2,197.58
Dept of Finance	1,842.20	-	-	-
iGov Solutions, LLC	-	4,800.00	14,400.00	9,600.00
Finance and IT Planning/Oversight				
Office Of Information Tech	-	21.76	36.76	37.18
SBS billing				
Dept. of Finance	-	44.52	118.00	141.25
Data Processing Total	4,973.20	8,315.88	18,183.06	11,976.01
Legal Services				
Attorney General's Office	4,395.00	1,350.00	-	1,935.00
Total Professional Services	\$ 144,133.03	\$ 149,010.68	\$ 159,871.84	\$ 125,934.46

Examination Results by Alabama Educational Institutions

Alabama Healing Arts, LLC

Calendar Year	Exams Taken	# Passed	% Passed
2018	3	3	100%
2019	5	5	100%

Auburn University

Calendar Year	Exams Taken	# Passed	% Passed
2021	4	4	100%

Better Bodies Massage Institute

Calendar Year	Exams Taken	# Passed	% Passed
2018	11	10	91%
2019	4	4	100%
2020	2	2	100%
2021	5	4	80%

Birmingham School of Massage

Calendar Year	Exams Taken	# Passed	% Passed
2018	45	24	53%
2019	51	25	49%
2020	37	28	76%
2021	31	21	68%

Blue Cliff Career College

Calendar Year	Exams Taken	# Passed	% Passed
2018	17	12	71%
2019	15	10	67%
2020	6	5	83%
2021	8	7	88%

Bluewater Institute for Massage Therapy

Calendar Year	Exams Taken	# Passed	% Passed
2018	8	6	75%
2019	7	4	57%
2020	10	7	70%
2021	7	4	57%

Dothan Massage School

Calendar Year	Exams Taken	# Passed	% Passed
2019	8	7	88%
2020	7	3	43%
2021	5	5	100%

Enterprise School of Massage

Calendar Year	Exams Taken	# Passed	% Passed
2018	2	1	50%
2019	9	6	67%
2020	3	1	33%
2021	1	0	0%

Gadsden State Community College

Calendar Year	Exams Taken	# Passed	% Passed
2018	13	10	77%
2019	5	2	40%
2020	15	10	67%
2021	7	4	57%

H. Council Trenholm State Technical College

Calendar Year	Exams Taken	# Passed	% Passed
2020	1	0	0%

Madison School of Massage Therapy

Calendar Year	Exams Taken	# Passed	% Passed
2018	18	10	56%
2019	25	17	68%
2020	18	12	67%
2021	17	12	71%

Massage Therapy Institute

Calendar Year	Exams Taken	# Passed	% Passed
2018	17	14	82%
2019	20	14	70%
2020	18	11	61%
2021	14	8	57%

Massaged Life & Wellness Academy

Calendar Year	Exams Taken	# Passed	% Passed
2018	5	4	80%
2019	12	10	83%
2020	8	3	38%
2021	16	7	44%

Montgomery School of Bodywork and Massage

Calendar Year	Exams Taken	# Passed	% Passed
2018	14	8	57%
2019	10	9	90%
2020	10	2	20%
2021	10	8	80%

North Alabama Wellness School

Calendar Year	Exams Taken	# Passed	% Passed
2018	14	6	43%
2019	5	2	40%
2020	15	11	73%
2021	10	6	60%

Northeast Alabama Community College

Calendar Year	Exams Taken	# Passed	% Passed
2018	4	3	75%
2019	6	3	50%
2020	6	5	83%
2021	2	1	50%

Postural Bodyworks Institute

Calendar Year	Exams Taken	# Passed	% Passed
2019	3	3	100%

Southern Union State Community College

Calendar Year	Exams Taken	# Passed	% Passed
2021	9	5	56%

University of North Alabama Neuromuscular Therapy Certificate Program

Calendar Year	Exams Taken	# Passed	% Passed
2018	11	6	55%

Virginia College – Birmingham

Calendar Year	Exams Taken	# Passed	% Passed
2018	9	7	78%
2019	1	0	0%
2020	2	0	0%

Virginia College – Huntsville

Calendar Year	Exams Taken	# Passed	% Passed
2018	15	11	73%
2019	3	3	100%

Board Members



ALABAMA BOARD OF MASSAGE THERAPY

2777 Zelda Road
Montgomery, AL 36106
334-420-7232
334-263-6115 fax
www.almtbd.alabama.gov

February 16, 2022

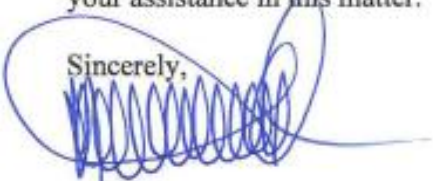
Mr. Troy Eastman
Examiners of Public Accounts
401 Adams Avenue, Suite 280
Montgomery, Alabama 36104

Dear Mr. Eastman,

Please find the following members that were appointed and have served during the audit period disclosed in your engagement letter dated February 9, 2022.

Please let me know if you have any questions or need any additional information. Thank you for your assistance in this matter.

Sincerely,



Keith E. Warren
Executive Director

<u>Board Member</u>	<u>Appointment Date</u>	<u>Appointment Expiration</u>
Stephanie Dobbins, <i>Chair</i> Gardendale, Alabama Sixth Congressional District	March 5, 2020	September 30, 2023
Stefanie Herfurth, <i>Vice-Chair</i> Vinemont, Alabama Fourth Congressional District	March 5, 2020	September 30, 2023
Gina Lee Elberta, Alabama First Congressional District	March 5, 2020	September 30, 2023
Foad Araiinejad, <i>Chair</i> Montgomery, Alabama Third Congressional District	March 5, 2020	September 30, 2023
Mary Rogers Montgomery, Alabama Second Congressional District	March 5, 2020	September 30, 2023
Denise Mastin Dale Huntsville, Alabama Fifth Congressional District	March 5, 2020	September 30, 2023
Darren Beams Northport, Alabama Seventh Congressional District	March 5, 2020	September 30, 2023

Board's Response to Significant Issues



ALABAMA BOARD OF MASSAGE THERAPY

2777 Zelda Road
Montgomery, AL 36106
334-420-7232
334-263-6115 fax
www.almtbd.alabama.gov

May 3, 2022

Maria L. Catledge
Director, Operational Division
401 Adams Avenue, Suite 280
Montgomery, Alabama 36104-4338

Dear Ms. Catledge,

I am in receipt of the significant issues/prior findings provided in your letter on April 26, 2022. Please find a response for each below:

Significant Issue 2022-01

There are several factors that have contributed to the declining fund balance. The pandemic did affect the receipt of license fees since massage establishments were closed as per the COVID-19 State of Emergency Proclamation. While establishments were not operating, license and renewal fees certainly were not being received. The other factor are expenses incurred while battling businesses that disguise themselves as massage therapy establishments while operating illegally promoting prostitution and trafficking humans through our state. Our investigator and inspector work extremely close with local, state, and federal law enforcement battling these businesses while the Board incurs the cost of travel, personnel costs, and legal costs to close these businesses and eliminate them from operating as massage therapy establishments. The Legislature did pass human trafficking laws in 2018 but did not provide any funding to the Board to assist in establishing the background checks and additional obligations to assist in battling this awful, illegal trade.

The Board was successful in passing legislation this year to significantly increase fines against these businesses as well as create inspection fees for businesses owned by out of state individuals to assist in covering the Boards financial obligations in battling these terrible businesses. The Board is promulgating these new rules currently will full anticipation of eliminating this signification issue. The Board and staff greatly appreciate every Legislator that voted for this bill that was long overdue.

Significant Issue 2022-02

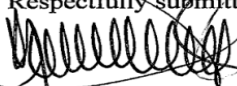
Again, thank you for the passage of Act 2022-408 to assist us in battling human trafficking and prostitution.

Prior Finding 2020-03

The Executive Director is working with the Governor's Appointments Office to change these appointment dates to comply with the statute and will continue to ensure these terms are appointed in compliance with the statute.

Thank you for your assistance in this matter. Please do not hesitate to contact me should you have any questions or need any additional information.

Respectfully submitted,



Keith E. Warren
Executive Director