

**Arkansas Occupational Licensing Review Committee Questionnaire for
Massage Therapy Occupational Licensure**

ADH Cosmetology, Massage Therapy and Body Art Section

1. *Would consumers be at risk of substantial harm if Arkansas did not have this occupational authorization? What instances of specific and substantial harm have been documented in the past year?*

Yes, consumers would be at risk of substantial harm if the State of Arkansas did not have this occupational authorization. Massage Therapy is one of the few occupations that require direct person to person contact, including, but not limited to, the use of chemicals and preparations to be applied to the skin and other appropriate tools where the public may be harmed from the improper use or failure of protection from the potential fumes and other environmental safety concerns. Notable dangers and concerns of a potentially unsafe environment to vulnerable individuals including sexual misconduct with or without consent from the client, infections, such as fungus, folliculitis, impetigo, ringworm, lice, mycobacterium, methicillin-resistant staphylococcus aureus (“MRSA”), conjunctivitis, and staph, use of linens that have not been properly sanitized in between clients, and use of products and chemicals that have not been approved by the State of Arkansas or the U.S. Food and Drug Administration.

To ensure the safety of the licensee and the public, the massage therapy occupation is commonly regulated across the states for health and safety practices. We have received complaints against individuals practicing massage therapy and not licensed by the Arkansas Department of Health (“ADH”) or engaging in practice outside the training and certifications the therapist has received. The complaints alleged unlicensed and unauthorized individuals performed unsafe procedures to individuals in the public, and alleged licensed therapist who are engaging in practices outside the scope of their licensure and without the required proper training for those practices. This can cause serious harm to the public because these individuals did not have the proper training, experience, and requirements to provide sanitary and safe services on the public free from harm.

2. *How many complaints were made to the occupational entity by consumers being harmed by unauthorized practitioners? What specific action was taken by the occupational entity?*

Three complaints were received for unlicensed individuals harming the public within the past year, and one complaint for licensed individuals practicing outside the scope of their training and certifications. The Massage Therapy Section performed the complaint investigations, and when applicable referred the investigations to the local law enforcement and prosecuting attorney for criminal violations.

3. *How many complaints were made to the occupational entity by consumers being harmed by authorized practitioners? What specific action was taken by the occupational entity?*

Eight complaints were received on licensed practitioners. The Massage Therapy Section performed complaint investigations and determined or identified that four of the complaints were sent cease and desist letters for non-criminal violations, and two of the complaints are

under investigations by Law Enforcement Officers. The two final complaints were regarding issues for which the Section did not have authority to address; however, Massage Therapy Section Inspectors spoke with the licensee to inform them of the complaint and investigation information was referred to the appropriate licensing board.

4. *Were any applicants who otherwise met authorization requirements denied an authorization in the past year? If so, why?*

The Massage Therapy Section is not aware of any applicants whose license were denied and who otherwise met licensing requirements. Applicants are made aware of the requirements for licensure. If an individual meets all requirements and standards within the law and the Rules for Massage Therapy and passes a state and federal background check, then the applicant receives their license.

5. *How much does the occupational entity collect annually in fees, and what are annual expenses?*

For the fiscal year 2023, the projected revenue is \$92,210.00. For the fiscal year 2023, the projected expenditures are \$60,289.81.

6. *If the occupational entity has a positive amount in reserves, when was the last time reserve funds were used? For what purpose?*

The Massage Therapy Section currently has a reserve of \$361,798.00. In addition to the measures referenced in item 7, ADH is reviewing cost allocation so that the Massage Program may more equitably bear the cost of program administration. The reserve is a result of inequitable cost burden compared to other programs in the section because the massage program has traditionally been unable to remain solvent under the current fee structure.

7. *Does the occupational entity have any other sources of revenue? Could occupational authorization fees be reduced without causing the occupational entity to be underfunded?*

The Massage Therapy Section does not receive revenue from any other sources. In addition to the projected expenditures noted in Question #5, the Massage Therapy Section is anticipating additional costs for training, investigations, and potential restructuring of licenses in the Massage Therapy Rules currently being discussed by two ad hoc committees formed by and with the help of the Massage Therapy Technical Advisory Board, but cannot project them for the current fiscal year.

8. *How many applicants for the occupational authorization fail each year? Does the occupational entity track how many applicants that do not progress are veterans, women, or minorities?*

The Massage Therapy Section does not track this information, and is only aware of applicants after each submits their application for licensure upon graduation from a massage therapy school or federally approved apprenticeship program and passage of the required licensure exam.

9. *Can applicants complete the training requirements for this occupational authorization with vocational or non-traditional education (e.g., apprenticeships)? What percentage of applicant's complete apprenticeships?*

To be licensed as a massage therapist in Arkansas, an applicant can attend and complete a program from an Arkansas Licensed School of Massage Therapy or Postsecondary School of Massage Therapy or complete an apprenticeship program that has been approved by the United States Department of Labor, Office of Apprenticeships. The Office of Apprenticeship has approved three apprenticeship programs in the state of Arkansas within the past 60 days, and therefore the fiscal year 2023 is the first year applicants may be approved for licensure through those programs under Arkansas law.

10. *In what ways would removal of the occupational authorization or reduction of occupational authorization requirements be harmful to current authorization holders?*

Licensure ensures that massage therapist in Arkansas meet the standards and education requirements needed to protect the public and licensees in the state properly. Licensure also protects the public by providing a review of complaints and implementation of disciplinary actions. Through licensure verification, citizens and entities can ensure that the individual has met all requirements to practice massage therapy and have the training, knowledge, and experience to provide safe services to their clients. The reduction in requirements would put the citizens of Arkansas at harm because the massage therapists would not have the proper training to perform services in a safe and sanitary way.

Public health and safety concerns for potential harm addressed by this licensure and the training requirements include the proper and improper use of chemicals on the skin, sanitary practices, and improper massage techniques. Notable dangers and concerns include infections, such as fungus, folliculitis, impetigo, ringworm, lice, mycobacterium, MRSA, conjunctivitis, and staph, in addition to risks of burns, improper application of hot stones, use of linens that have not been properly sanitized in between clients, and use of products and chemicals that have not been approved by the State of Arkansas or the U.S. Food and Drug Administration. The training and licensure required for the massage therapy occupation should not be reduced or eliminated as it helps protect the public from these potential dangers and concerns from unlicensed therapist and licensed therapist engaging in procedures outside the scope of the training and certifications.