

1 BOARDS AND COMMISSIONS

2 Board of Licensure for Massage Therapy

3 (Amendment)

4 201 KAR 42:035. Application process, exam, and curriculum requirements.

5 RELATES TO: KRS 309.358, 309.359, 309.362, 309.363

6 STATUTORY AUTHORITY: KRS 309.355(1), (3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(1) requires the board
8 to administer and enforce the provisions of KRS 309.350 to 309.364 and to evaluate the
9 qualifications of applicants for licensure. KRS 309.355(3) requires the board to promul-
10 gate administrative regulations to implement KRS 309.350 to 309.364, including educa-
11 tional program curriculum. The board may issue a license to an applicant meeting the
12 standards established in KRS 309.358 or 309.359. This administrative regulation estab-
13 lishes the application process and curriculum requirements for licensure.

14 Section 1. An applicant for licensure as a massage therapist shall:

15 (1) File a completed, signed, and dated Application for Licensure as a Massage Thera-
16 pist, and the required documentation with the board, meeting the requirements estab-
17 lished in KRS 309.358;

18 (2) Pay the application fee as established in 201 KAR 42:020; and

19 (3) Affix a two (2) inch by two (2) inch or larger passport quality color head shot photo-
20 graph of only the applicant to the application form. The photograph submitted with the
21 application shall be taken within the previous six (6) months to reflect the current ap

1 pearance of the applicant.

2 Section 2. (1) To comply with KRS 309.358(1)(f)~~[(4)]~~, an applicant shall submit to the
3 board, upon application, an official transcript or certificate that:

4 (a) Shows the completion of at least 600 classroom hours earned at a board approved
5 massage therapy program; and

6 (b) Itemizes compliance with the clock hour requirements established in KRS
7 309.363(1)(b).

8 (2) Board approved massage therapy programs include only those programs holding a
9 C[ertificate of G[ood S]tanding issued pursuant to KRS 309.363, KRS 309.3631,
10 and 201 KAR 42:080.

11 (3) A massage therapy school which has registered and obtained a school code as-
12 signment with the National Certification Board for Therapeutic Massage and Bodywork
13 (NCBTMB) shall maintain good standing with the NCBTMB during the entire period the
14 applicant attended the school. Suspension or revocation of the NCBTMB school code at
15 any time during that period shall constitute grounds for:

16 (a) Denial of an application for licensure by graduates of that school; and

17 (b) Revocation of a Certificate of Good Standing held by the massage therapy school.

18 (4) A school's non-renewal of an NCBTMB code while in good standing shall not pre-
19 clude an applicant from obtaining licensure.

20 Section 3. Examinations. (1) An applicant shall successfully pass an examination:

21 (a) Listed in KRS 309.358(1)(g)~~[(5)]~~; or

22 (b) Approved by the board pursuant to KRS 309.358(1)(g)~~[(5)]~~ and listed in subsection
23 (4) of this section.

1 (2) An examination shall be approved by the board as meeting the standard established
2 in KRS 309.358(1)(g)~~[(5)]~~ if the board finds that the examination:

- 3 (a) Has been scientifically constructed to be valid and objective;
- 4 (b) Reflects the curriculum content established in KRS 309.363(1);
- 5 (c) Has security procedures to protect the exam content; and
- 6 (d) Has clear application, reporting, and appeal procedures.

7 (3) Approval of exams shall be noted in the board minutes and on the board Web site at
8 <http://bmt.ky.gov>.

9 (4) The following examinations have been approved by the board pursuant to KRS
10 309.358(1)(g)~~[(5)]~~:

11 (a) The Massage and Bodywork Licensing Examination (MBLE~~x~~) or other exam admin-
12 istered by the Federation of State Massage Therapy Boards (FSMTB);

13 (b) An entry level examination administered by the National Certification Board for
14 Therapeutic Massage and Bodywork (NCBTMB);

15 (c) Any examination of a certifying agency approved by National Commission on Certify-
16 ing Agencies (NCCA);

17 (d) An entry level massage therapy examination administered by the National Board
18 Certification Agency (NBCA);

19 (e) The State of Ohio Massage Therapy Licensing Exam; and

20 (f)~~(e)~~ The State of New York Massage Therapy Licensing Exam.~~]; or~~

21 ~~(d) The National Board Certification Agency (NBCA) Massage Therapy Certification Ex-~~
22 ~~am, Level One.];~~

23 Section 4. (1) An applicant with a criminal history, excluding minor traffic violations,

1 may be required to~~shall~~ participate in an in-person interview with~~be interviewed by~~
2 the board's Application Committee prior to licensure. The purpose of this interview~~with~~
3 ~~the board's application committee~~ shall be to find if the applicant meets~~complies with~~
4 the requirement for good moral character established in KRS 309.358(1)(c).~~(3) and~~
5 ~~335B.040, and the~~ The interview shall be conducted pursuant to the board's authority
6 under KRS 309.355(2),~~KRS~~ 309.362(1)(b), and 309.362(2) and in accordance with
7 KRS 335B.010 to 335B.070.

8 (2) All applicants shall submit a recent fingerprint-supported background check per-
9 formed by the Kentucky State Police and the Federal Bureau of Investigation. The re-
10 quired background check shall be applied for within the ninety (90) days preceding the
11 date of submission of the application for licensure to the board.

12 Section 5. Appeals. (1) ~~[Upon initial review, the board shall make a prelimi-~~
13 ~~nary]determination with respect to an application.~~ An applicant may appeal the denial
14 ~~of~~a preliminary determination denying his or her licensure application by requesting a
15 hearing in accordance with KRS 309.362(2).~~(4)~~. In order to request a hearing, the ap-
16 plicant shall file a notice of appeal in writing~~[by certified mail that is received by the~~
17 ~~board]~~ within thirty (30) days of the date of the letter informing the applicant of the ~~[pre-~~
18 ~~liminary determination of]~~denial.

19 Section 6. Incorporation by Reference. (1) The "Application for Licensure as a Mas-
20 sager Therapist", June 2021~~September 2015~~, is incorporated by reference.

21 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
22 law, at the Department of Professional Licensing, 500 Mero Street, Frankfort, KY
23 40601~~[Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Ken-~~

- 1 ~~tucky 40601~~, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's web site ad-
- 2 dress is: <https://bmt.ky.gov/>.

201 KAR 42:035

APPROVED BY AGENCY:

A handwritten signature in cursive script that reads "Brandy Madding". The ink is a light grey or blue color.

Brandy Madding, LMT, Chair
Board of Licensure for Massage Therapy

Date: September 13, 2021

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 8:00 AM EST on November 29, 2021, at 500 Mero Street, 133CE, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to attend the meeting by video conference:

Join from PC, Mac, Linux, iOS or Android:

<https://us02web.zoom.us/j/85834511709?pwd=ZENzSmp5Q0MyQS9GK01vcFpCTjJVQT09>

Password: 270127

Or Telephone:

Dial:

USA 713 353 0212

USA 8888227517 (US Toll Free)

Conference code: 511232

Find local AT&T Numbers:

<https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=511232>

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

149.137.68.253 (Mexico)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

207.226.132.110 (Japan Tokyo)

149.137.24.110 (Japan Osaka)

Meeting ID: 858 3451 1709

Password: 270127

SIP: 85834511709@zoomcrc.com

Password: 270127

Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date (November 18), the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM EST on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Leah Cooper Boggs
Title: General Counsel, Department of Professional Licensing
Address: 500 Mero Street 237 CW
Phone: (502) 782-0562 (office)
Phone: (502) 352-8095 (cell)
Fax: (502) 564-3969
Email: LBoggs@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 42:035

Contact Person: Leah Cooper Boggs
Phone: (502) 782-0562 (office)
Phone Number: 502-352-8095 (cell)
Email: lboggs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for licensure and the procedure to obtain a license in massage therapy.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to notify potential licensees of the requirements for licensure and the process for application.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Board is required by KRS 309.355(1) to regulate the practice of massage therapy. KRS 309.355(3) also authorizes the Board to promulgate administrative regulations regarding the practice of massage therapy.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed regulation updates and clarifies the requirements for licensure and the procedure to obtain a license. The proposed regulation also updates references to the authorizing statute as amended by HB 79 (2021).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(d).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 2,665 individuals licensed by the Board and anyone interested in obtaining a license from the Board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None. It only simplifies and clarifies the requirements for licensure and the procedure to obtain a license in massage therapy.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None. It only simplifies and clarifies the requirements for licensure and the procedure to obtain a license in massage therapy.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It will assist licensees and prospective licensees in understanding the process to obtain a license.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None. It only simplifies and clarifies the requirements for licensure and the procedure to obtain a license in massage therapy.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost to the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the administrative regulation.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed language will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 201 KAR 42:035

Contact Person: Leah Cooper Boggs
Phone: (502) 782-0562 (office)
Phone Number: 502-352-8095 (cell)
Email: lboggs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Licensure for Massage Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(1), 309.355(3)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will not create any additional expenses or revenues for any state or local government agency after implementation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fires, or school districts) for the first year? No revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

Regulation No. 201 KAR 42:035

Contact Person: Leah Cooper Boggs
Phone: (502) 782-0562 (office)
Phone Number: 502-352-8095 (cell)
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“Application for Licensure as a Massage Therapist,” June 2021, is a four (4) page form used by applicants seeking licensure by the Kentucky Board of Licensure for Massage Therapy. It amends the “Application for Licensure as a Massage Therapist,” September 2015. The proposed amendments to this form make the following changes: (1) separates the instructions from the list of documents required to be attached; (2) updates the criminal history check information; (3) clarifies the information that should be provided regarding criminal convictions and discipline from other states; (4) updates the contact information for the Board; and (5) changes the revision date.