

# Licensing Division

## Staff Report for the Massage Therapy Advisory Board Meeting September 11, 2023

### Statistics

#### MASSAGE THERAPIST

	<b>Total FY 2022</b>	<b>1<sup>st</sup> Quarter FY 2023</b>	<b>2<sup>nd</sup> Quarter FY 2023</b>	<b>3<sup>rd</sup> Quarter FY 2023</b>
New Licenses Issued	1,641	500	318	379
Renewed Licenses Issued	13,310	2,981	3,075	3,332
Online Renewals	12,435	2,839	3,008	3,170
% Renewed Online	93%	95%	98%	95%
<b>Total Population</b>	<b>26,882</b>	<b>27,249</b>	<b>27,317</b>	<b>27,381</b>

#### MASSAGE THERAPY INSTRUCTOR

	<b>Total FY 2022</b>	<b>1<sup>st</sup> Quarter FY 2023</b>	<b>2<sup>nd</sup> Quarter FY 2023</b>	<b>3<sup>rd</sup> Quarter FY 2023</b>
New Licenses Issued	203	54	23	40
Renewed Licenses Issued	641	140	135	174
Online Renewals	596	134	130	169
% Renewed Online	93%	96%	96%	97%
<b>Total Population</b>	<b>1,483</b>	<b>1,535</b>	<b>1,538</b>	<b>1,542</b>

**MASSAGE THERAPY ESTABLISHMENT**

	<b>Total FY 2022</b>	<b>1<sup>st</sup> Quarter FY 2023</b>	<b>2<sup>nd</sup> Quarter FY 2023</b>	<b>3<sup>rd</sup> Quarter FY 2023</b>
New Licenses Issued	803	137	152	176
Renewed Licenses Issued	848	175	250	279
<b>Total Population</b>	2,621	2,754	2,769	2,839

## EDUCATION AND EXAMINATION DIVISION

### Staff Report for Massage Therapy – September 11, 2023

#### Statistics

#### CONTINUING EDUCATION PROVIDERS (AS OF JULY 31, 2023)

<b>FY 2023</b>	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
NEW PROVIDER	5	4	5	14	6	4	2	12	1	4	2	7	5	4	-	9	42
PROVIDER RENEWED	15	8	7	30	11	13	15	39	13	13	12	38	16	14	-	30	137
TOT MAS PROVIDER	366	360	361	361	365	368	366	366	357	351	351	351	359	354	-	354	354
<b>FY 2022</b>	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
NEW PROVIDER	2	5	2	9	3	3	2	8	3	6	1	10	2	0	4	6	33
PROVIDER RENEWED	8	3	4	15	13	1	1	15	13	8	12	33	5	13	10	28	91
TOT MAS PROVIDER	388	389	387	387	390	388	376	376	376	376	370	370	364	364	365	365	365

#### JURISPRUDENCE EXAMINATION (AS OF JULY 31, 2023)

<b>FY 2023</b>	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
JP EXAM FOR MT	174	184	156	349	127	152	140	419	143	134	129	406	127	110	-	237	1411
<b>FY 2022</b>	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
JP EXAMS FOR MT	149	137	157	443	144	134	112	390	143	154	178	475	144	150	175	469	1777

MESSAGE SCHOOLS  
(AS OF JULY 31, 2023)

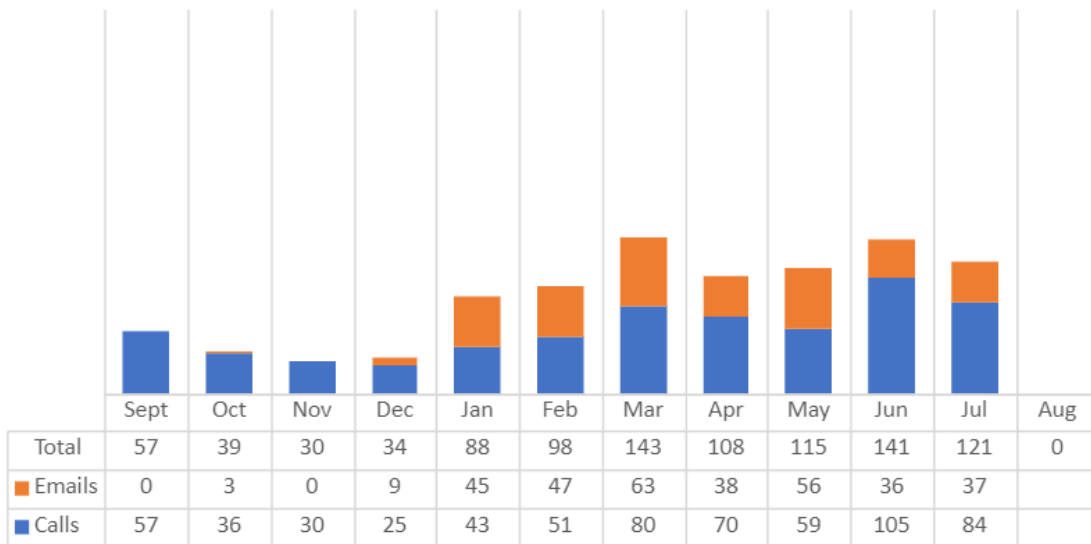
FY2023	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL SCHOOLS	64	66	66	66	67	67	67	67	69	71	68	68	70	70	-	70	70
FY2022	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL SCHOOLS	61	61	59	59	60	59	61	61	62	62	62	62	60	60	60	60	60

# Customer Service Division

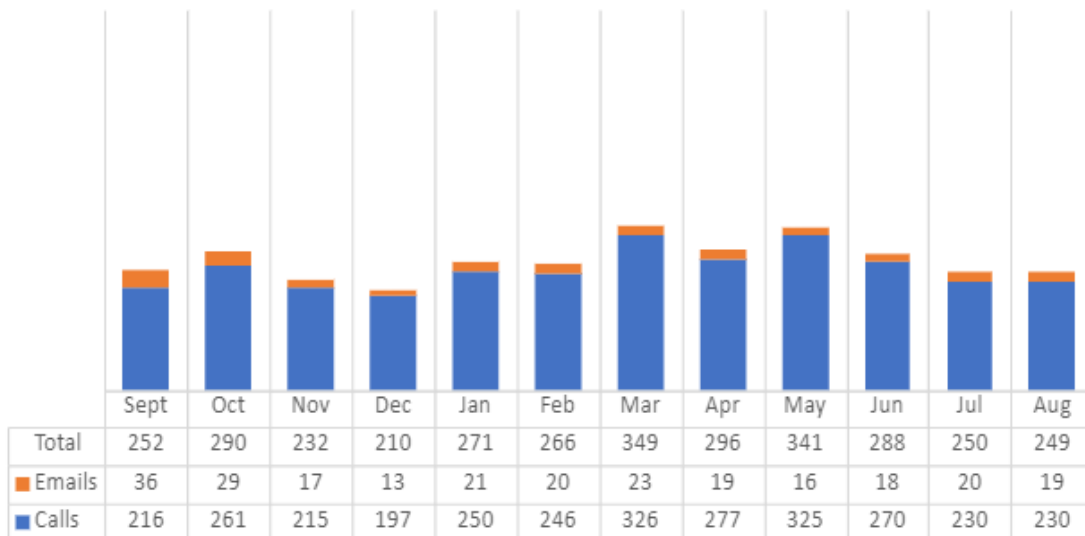
Staff Report for the Massage Therapy Advisory Board  
September 11, 2023

## Statistics

**LICENSED BEHAVIOR ANALYSTS  
CUSTOMER SERVICE CONTACTS FISCAL YEAR 2023**



**BOILERS  
CUSTOMER SERVICE CONTACTS FISCAL YEAR 2022**



# Enforcement Division

## Staff Report for the Massage Therapy Advisory Board September 11, 2023

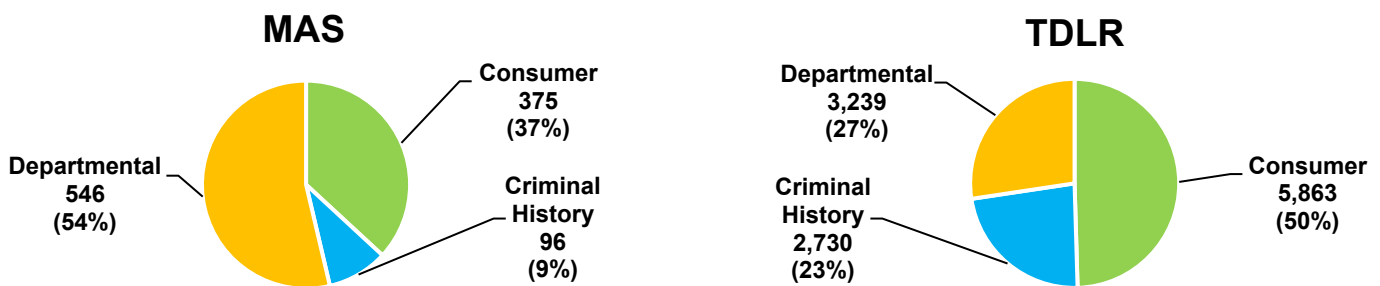
### Statistics:

Shown below are the Complaints Received, Enforcement Performance Measures and key statistics for the Massage Therapy (MAS) program and all TDLR programs combined through **July 31<sup>st</sup> of Fiscal Year 2023**:

Complaints Received Break Down	MAS	TDLR
Consumer complaints	553	12,829
Departmental initiated complaints	526	3,206
Criminal History Records Reviewed for licensure	3,317	80,775
<b>Total Complaints Received</b>	<b>4,396</b>	<b>96,810</b>

Key Statistics	MAS	TDLR
Cases opened	1,017	11,832
Cases closed	936	10,418
Average time to close (days)	301.54	216.64
% of cases resolved within 6 months	39.85%	54.96%
% of cases resulting in disciplinary action	25.00%	13.00%
Cases pending at end of July	826	7,975

### Source of Cases Opened through July 31<sup>st</sup> of Fiscal Year 2023



<b>Case Outcomes</b>	<b>MAS</b>	<b>TDLR</b>
Agreed Orders	164	804
Commission Orders	1	9
Default Orders	62	461
Penalties Assessed	\$927,200.00	\$2,860,385.00
Penalties Collected	\$400,051.00	\$1,325,091.00
Licenses Revoked (Disciplinary)	38	56
Licenses Suspended	0	4
Licenses Denied/Revoked (Criminal History)	16	137
Cease & Desist Orders	5	7
Informally Resolved	695	9,068
Consumer restitution through negotiated settlement	\$0.00	\$253,017.69

**Top 10 MAS Alleged Violations at Opening  
through July 31<sup>st</sup> of Fiscal Year 2023**

<b>Alleged Violation:</b>	<b>Count</b>
Unlicensed therapist	261
Consultation document	236
Unlicensed establishment	142
Allowed unlicensed or expired	126
Sexual misconduct	113
Criminal history	96
Sexual assault	69
Failed to separate residential or sleep area	69
Expired establishment license	51
Failed to maintain employee records	44

**TOP 10 MAS Violations Resulting in Disciplinary Action  
through July 31<sup>st</sup> of Fiscal Year 2023**

<b>Violation</b>	<b>Count</b>
Consultation document	90
Allowed unlicensed or expired	70
Sexual misconduct	49
Unlicensed therapist	43
Unlicensed establishment	40
Allowed person to reside on premises	18
Criminal history	16
Failed to maintain employee records	16
Failed to drape	14
Failed to cooperate with Department	10

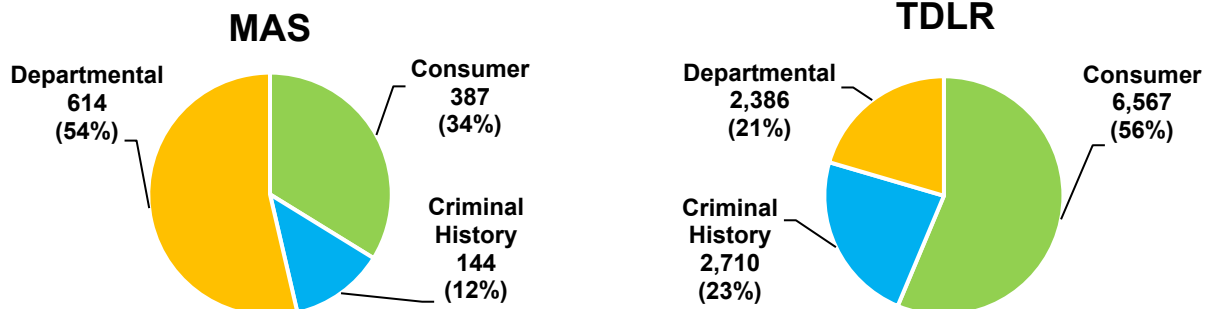
## Statistics for Fiscal Year 2022:

Shown below are the Complaints Received, Enforcement Performance Measures and key statistics for the Massage Therapy (MAS) program and for all TDLR programs combined for **Fiscal Year 2022**:

<b>Complaints Received Break Down</b>	<b>MAS</b>	<b>TDLR</b>
Consumer complaints	652	14,098
Departmental initiated complaints	600	2,368
Criminal History Records Reviewed for licensure	1,047	48,488
<b>Total Complaints Received</b>	<b>2,299</b>	<b>64,954</b>

<b>Key Statistics</b>	<b>MAS</b>	<b>TDLR</b>
Cases opened	1,145	11,663
Cases closed	1,031	11,754
Average time to close (days)	183.68	215.79
% of cases resolved within 6 months	66.25%	57.64%
% of cases resulting in disciplinary action	16.10%	10.81%
Cases pending at the end of Fiscal Year 2022	740	6,540

### Source of Cases Opened for Fiscal Year 2022



<b>Case Outcomes</b>	<b>MAS</b>	<b>TDLR</b>
Commission Orders	6	27
Default Orders	34	384
Agreed Orders	105	749
Penalties Assessed	\$504,375.00	\$2,588,310.00
Penalties Collected	\$247,823.00	\$1,322,419.50
Licenses Revoked (Disciplinary)	26	50
Licenses Suspended	0	4
Licenses Denied/Revoked (Criminal History)	35	182
Cease & Desist Orders	10	17
Informally Resolved	858	10,486
Consumer restitution through negotiated settlement	\$167,430.73	\$390,011.62



## MAS Alleged Violations at Opening for Fiscal Year 2022

<b>Alleged Violation:</b>	<b>Count</b>
Consultation document	264
Unlicensed establishment	218
Unlicensed therapist	195
Criminal history	147
Allowed unlicensed or expired to work	127
Sexual misconduct	113
Failed to separate residential or sleep area	102
Failed to maintain employee records	71
Expired establishment license	67
Sexual assault	56

## MAS Violations Resulting in Disciplinary Action for Fiscal Year 2022

<b>Violation:</b>	<b>Count</b>
Consultation document	45
Criminal history	36
Unlicensed Therapist	31
Allowed unlicensed or expired to work	28
Unlicensed establishment	27
Sexual misconduct	24
Allowed person to reside on premises	9
Fraud, deceit, negligence, or incompetence	6
School failed to maintain records	5
Failed to drape	4
Failed to cooperate with Department	4
Failed to maintain employee records	4

## Case Highlights

- Hae Hardy d/b/a Suns Spa (MAS20210010469) | Agreed Order issued January 18, 2022

On January 18, 2022, an Agreed Order was signed that finalized the settlement agreement between the Department and Hae Hardy d/b/a Suns Spa. As part of this negotiated settlement Hae Hardy accepted liability for failing to properly maintain and secure for each client the initial consultation documents, all session notes, and related billing records, failing to cooperate with the inspector in the performance of the inspection, and allowing an individual to reside on the premises of the massage establishment. The Order imposed a penalty of \$17,500.00 and Revocation of the Massage Establishment license. To date the Respondent is in compliance with the Order.

- Jimmy Simerskey  
(MAS20220002811) | Agreed Order issued September 25, 2022

On September 25, 2022, an Agreed Order was signed that finalized the settlement agreement between the Department and Jimmy Simerskey. As part of this negotiated settlement, Mr. Simerskey accepted liability for engaging in four separate acts of sexual contact during a session with a client, failing to provide a consultation document with all required information to a client before the first session, failing provide an updated consultation document reflecting any changes and modifications to the techniques used or the parts of the client's body to be massaged, making a false, misleading, deceptive, fraudulent, or exaggerated claim or statement about the licensee's services. The Order imposed a penalty of \$15,000.00 and a lifetime ban on practicing massage therapy or owning a massage establishment in the State of Texas for the remainder of his life. To date he is in compliance with this order.

## COMPLIANCE DIVISION

### Staff Report for the Massage Therapy Advisory Board Meeting September 11, 2023

#### Current Projects

- Staff are on Bill Implementation Teams (BIT) for legislative changes from the recent 88<sup>th</sup> Legislative Session.
- Staff members continue to assist other divisions with questions that arise during investigations and inspections, as well as addressing daily inquiries received from licensees and customers regarding scope of practice, jurisdiction, substantial licensure equivalency, examination, and foreign credential reviews.

#### Outreach

- International Congress of Esthetics & Spa Show in Dallas, June 11-12, 2023

If you have any upcoming conferences, meetings, or professional association gatherings (virtually or in person) that you would like for us to attend, please do not hesitate to contact me, Jerry González.

# FIELD INSPECTIONS DIVISION

## Staff Report for the Massage Therapy Advisory Board September 11, 2023

### Statistics

The statistics below compare division performance for FY 2023 year-to-date with performance for the same time during FY 2022, September 1<sup>st</sup> – July 31<sup>st</sup>.

Massage Therapy Establishments			Massage Therapy Schools	
	FY 2022	FY 2023	FY 2022	FY 2023
September	11	122	3	9
October	26	157	6	4
November	111	122	13	6
<b>Q1</b>	<b>148</b>	<b>401</b>	<b>22</b>	<b>19</b>
December	108	48	12	2
January	137	70	1	0
February	72	56	6	7
<b>Q2</b>	<b>317</b>	<b>174</b>	<b>19</b>	<b>9</b>
March	211	157	5	3
April	156	158	3	7
May	105	91	9	6
<b>Q3</b>	<b>472</b>	<b>406</b>	<b>17</b>	<b>16</b>
June	141	115	4	8
July	131	33	1	2
August	226	<i>In progress</i>	3	<i>In progress</i>
<b>Q4</b>	<b>498</b>		<b>8</b>	
<b>Year-to-Date/Year End</b>	<b>1,435</b>	<b>1,129</b> <i>As of July 31<sup>st</sup></i>	<b>66</b>	<b>54</b> <i>As of July 31<sup>st</sup></i>

### Most Common Violations Found During Inspections in FY23:

- **16 TEX. ADMIN. CODE 117.90(q).** – Failed to notify each client of the name, mailing address, telephone number, and web address of the department for the purpose of directing complaints to the department on (1) each written contract or (2) on sign prominently displayed in primary place of business or (3) on a bill for services or (4) by another written and documented method.
- **16 TEX. ADMIN. CODE 117.91(a).** – A licensee shall provide an initial consultation to each client before the first massage therapy session and obtain the signature of the client on the consultation document.

## **Current Projects**

In July 2022, TDLR's Field Inspections division began production use in the field of a new system that allows inspectors to track their inspections electronically. This new method, which we're calling "eInspections," will allow us to better serve licensees, increase our efficiency, and standardize the data we collect for each inspection. As of November 2022, Field Inspections has fully transitioned to using "eInspections".

In November 2021, Field Inspections began development of a risk-based inspection process for the Massage Therapy program in accordance with TDLR's Sunset review and legislation passed during the 87th Regular Legislative Session. The Field Inspections Division began conducting risk-based inspections in the Massage Therapy program this fiscal year.