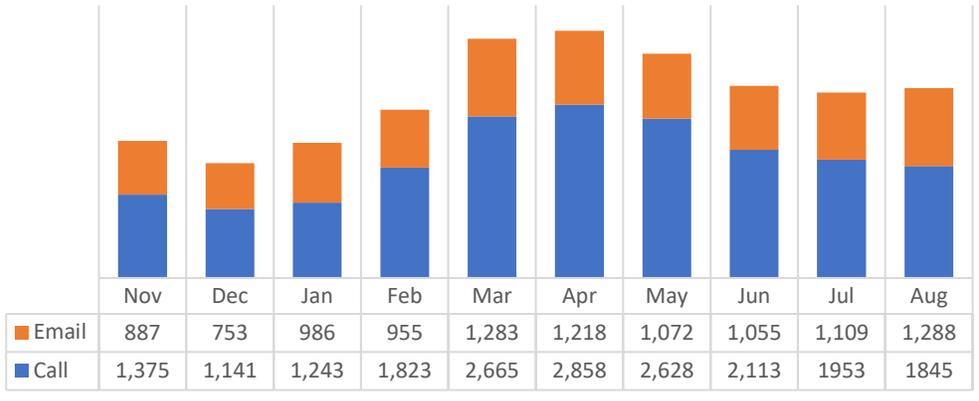


MASSAGE THERAPY STATISTICAL REPORT
October 16, 2018

MASSAGE THERAPIST	FY18
New Licenses Issued	1,518
Renewed Licenses Issued	12,673
Total Population	30,535
MASSAGE THERAPY INSTRUCTOR	
New Licenses Issued	150
Renewed Licenses Issued	443
Total Population	1,378
MASSAGE ESTABLISHMENTS	
New Licenses Issued	714
Renewed Licenses Issued	176
Total Population	2,100

**MASSAGE THERAPY
CUSTOMER SERVICE CONTACTS
FISCAL YEAR 2018
EFFECTIVE NOVEMBER 1, 2017**



MESSAGE THERAPY ADVISORY BOARD

OCTOBER 16TH, 2018

PERSONNEL UPDATE

EDUCATION, EXAM, AND SCHOOL SERVICE: ACCREDITATION & CERTIFICATION SPECIALIST – CARNECIA PENSON



Carnecia has 17 years' experience working in state government. She comes to us from the Board of Nursing, where she provided legal support to the attorneys. Prior to this, she held a position at the Texas Commission on Law Enforcement (TCLOE) as a Program Specialist in the Education and Training Division. Her duties included the approval of training providers and candidate approval for the TCLOE academy, administering examinations, to the approval of curriculums. She also has experience in CE and training provider approvals.

Carnecia graduated from Concordia University in Austin with a degree in Criminal Justice Management.

DRIVER, OFFENDER AND SAFETY EDUCATION: ACCREDITATION & CERTIFICATION SPECIALIST – KAYLA POTTER



Kayla began her state service with DSHS as a clerk in 2013 where she evaluated and entered personnel certification and licensure data into versa. Kayla was promoted to an Administrative Assistant and subsequently as the Team Lead for the Administrative staff. She Left DSHS to pursue a career with the Texas Board of Nursing as a licensing Specialist. In this capacity she reviewed large volumes of nursing applications, determined eligibility and reviewed sensitive criminal history information on applicants.

Kayla received a bachelor's degree in communication/business administration from Texas State University. She also holds an associate degree in General studies from Austin Community College.

EDUCATION & EXAMINATION STATISTICS

Massage Therapy License Holders take a National Examination; those examination numbers are not available.

JURISPRUDENCE EXAMINATION COMPLETED

FY 2017-18

1 ST Q		2 ND Q		3 RD Q		4 TH Q	
SEPTEMBER	0	DECEMBER	161	MARCH	189	JUNE	201
OCTOBER	1	JANUARY	174	APRIL	208	JULY	228
NOVEMBER	196	FEBRUARY	153	MAY	209	AUGUST	198
TOTAL	197	TOTAL	488	TOTAL	606	TOTAL	627
TOTAL				1,918			

Massage Therapy Advisory Board
Enforcement Division Staff Report
October 16, 2018

Case Highlights

Case No. MAS20180006447 - Du Huu Nguyen

On 9/12/2018, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Du Huu Nguyen. As part of this negotiated settlement, Respondent accepted liability for having performed massage therapy without a license on the premises of 9 Hair & Nails. To resolve these violations, Respondent agreed to pay the Department an administrative penalty of \$2,250.

The evidence in this case was gathered by Houston PD's Vice Division during its investigation of an alleged sexual assault committed by Respondent during a massage therapy session at 9 Hair & Nails. Due to HPD's criminal investigation and the restrictions on evidence dissemination that follow, the Department couldn't proceed on the allegation of sexual assault. But based on those victim statements that could be disclosed to the Department, we found sufficient evidence of unlicensed activity to proceed against Respondent.

Case No. MAS20180006974 - Chongya Ke d/b/a Asian Massage

On or about August 22, 2018, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Chongya Ke. As part of this negotiated settlement, Respondent accepted liability for failing to maintain any initial client consultation documents on the clients who had patronized Asian Massage within the past two years. To resolve this violation, Respondent agreed to pay the Department an administrative penalty of \$2,250.

Case No. MAS20180009223 - Yolanda Andrea Hayes (Respondent) d/b/a Urban Luxe Reflexology and Skincare

On or about June 18, 2018, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Yolanda Andrea Hayes. As part of this negotiated settlement, Respondent accepted liability for representing Urban Luxe Reflexology & Skincare, a cosmetology esthetician salon, to be a licensed massage establishment. Specifically, during the investigation, the Investigator observed a sign on the salon's front door that offered to provide "Massages-foot, hand, face, ear" services to prospective clients. To resolve these violations, Respondent agreed to pay the Department an administrative penalty of \$1,750.

Case No. MAS20180010467 - Adam Sabatino

Respondent was licensed as a massage therapist on September 5, 2008, and then on February 1, 2018, he applied to renew this license. But on February 24, 2017, Respondent had been imprisoned in state jail after being convicted of a second-degree felony, specifically, of possession of less than a gram of a “penalty group two” controlled substance (mescaline, ecstasy, methaqualone, amphetamine).

TEX. OCC. CODE § 53.021(b) provides that a license holder's license shall be revoked on the license holder's imprisonment following a felony conviction. Thus, on December 17, 2017, the Department notified Adam Sabatino that on February 24, 2017, his Massage Therapist license had been revoked by operation of law. Upon Respondent's release from prison, he will be eligible to apply for a new massage therapist license.

Case No. MAS20180010130 - Eastern Foot Spa, Inc. (associated cases: MAS20180011103, MAS20180011101, MAS20180011106)

On August 14, 2018, the Executive Director granted the Department's Motion for Default against Respondent. The order found Respondent, a licensed massage establishment, liable for allowing an unlicensed individual to perform massage therapy on the premises and assessed Respondent an administrative penalty of \$2,500.

The evidence was gathered during a surprise inspection of Eastern Foot Spa by the Houston Police – Vice Division, who forwarded this evidence to the Department for administrative action. In addition to the Respondent's case, three separate cases were opened against three individuals observed performing unlicensed massage therapy on the premises during the sweep.

Recently Accomplishments and Current Projects

- On September 25, the Commission voted to approve the Criminal Conviction Guidelines for the Massage Therapy program. The guidelines will be published in the October 12 issue of the Texas Register, and published on the Department's website shortly thereafter.

Personnel Changes

- Hired Rebecca Burkhalter for an Attorney III vacancy, which occurred when Aaron Heath was promoted to Attorney IV. Rebecca was previously employed with the Texas Department of Public Safety (DPS) as a staff attorney in the Office of Regulatory Counsel, and later as a criminal records staff attorney. Prior to DPS, Rebecca worked for over five years in private practice as a family law attorney, representing clients in bench and jury trials in district court. She earned her bachelor's degree in finance from the University of Texas at Austin and her law degree from Texas Tech University School of Law. Rebecca started with us on August 15.
- Hired Bob Rennich for an Attorney III position, that will specialize in cases resulting from inspections and unlicensed activity. From 2007 to 2017, Bob was employed with TDLR as an enforcement prosecutor, managing a large, specialized caseload involving the review of

applicants' criminal histories to determine fitness for licensure. Bob's earlier employment included more than 10 years as a criminal prosecutor with extensive trial experience in misdemeanor and felony cases. He served as a criminal prosecutor in El Paso County, Lubbock County, and the Attorney General's Office. Bob earned his bachelor's degree in History/Economics at the University of Texas at Dallas, and his law degree from the University of Texas at Austin. Bob started with us on October 1.

Key Statistics

Shown below are key statistics for the Massage Therapy program and for all TDLR programs combined for Fiscal Year 2018.

<u>Statistic</u>	<u>MAS</u>	<u>TDLR</u>
• Number of cases opened:	985	10,585
• Number of cases resolved:	418	9,833
• Number of Agreed Orders:	29	1,295
• Total amount of penalties assessed:	\$65,650	\$3,209,055
• Total amount of penalties collected:	\$36,525	\$1,528,594

Massage Therapy Advisory Board Meeting

Field Inspections Staff Report



The Face of TDLR

October 16, 2018

Inspection Process Update

The division is performing periodic inspections of massage therapy establishments. And, we are now conducting initial and periodic massage school inspections. On September 11, 12, and 13, we trained six (6) additional inspectors to perform periodic massage establishment inspections.

Current Projects

Prevention of Human Trafficking

On September 20 and 21st Ulises Ossio, Field Inspector Liaison, attended the International Human Trafficking and Social Justice Conference in Ohio along with representatives from other TDLR Divisions. Attendees were trained on how best to identify the signs of human trafficking and were provided resources to assist with identifying and reporting human trafficking.

Personnel Updates

Fernando Reyes accepted the South Region Manager position effective June 1, 2018.

Congratulations to Ulises Ossio and Juan Muñoz, who were both selected as Liaisons effective August 1, 2018. Liaisons help perform school pre-license inspections and develop and perform inspector training for new inspectors and provide additional training to all inspectors when updates are made to the 11 programs that require inspections.

We welcomed four new inspectors on September 17, 2018. James Turner and LaCreasha Wells will work in the DFW area, Nina Smith in the Houston area, and James McEachern will work in area of Bexar, Kendall and Comal Counties.

Statistics and Trends

Massage Establishments

	MAS
	FY 2018
SEPT	
OCT	
NOV	
QTR 1	
DEC	
JAN	
FEB	0
QTR 2	0
MAR	0
APR	3
MAY	8
QTR 3	11
JUNE	29
JUL	43
AUG	11
QTR 4	83
Year to Date/ Year End	94

Massage Schools

	Massage Schools	
	FY 2018	
SEPT		0
OCT		0
NOV		0
QTR 1		0
DEC		0
JAN		0
FEB		1
QTR 2		1
MAR		0
APR		0
MAY		0
QTR 3		0
JUNE		0
JUL		3
AUG		6
QTR 4		9
Year to Date/ Year End		10

Highlighted numbers were completed by the E&E division.

Regulatory Program Management Staff Report

Massage Therapy Advisory Committee Meeting

October 16, 2018

Update and Discussion Regarding Massage Therapy Program Activities

- RPM staff continue to work on the transition of the Massage Therapy Program.
- Marinela LaFleur and Elizabeth Perez are working with other divisions on issues that involve massage.
- Elizabeth and Marinela continue to assist Enforcement, Field Inspections, Licensing and Customer Service with questions that arise during investigations, inspections, as well as addressing daily industry inquiries and emails.
- Marinela and Elizabeth have been reviewing proposed rule changes and legislative updates.
- No personnel updates or changes since the last meeting.
- Standard of Care Workgroup met on October 2, 2018.