

MASSAGE THERAPY STATISTICAL REPORT
November 12, 2019

MASSAGE THERAPIST	FY19	MASSAGE THERAPIST	FY20	TO DATE
New Licenses Issued	2,065	New Licenses Issued	131	131
Renewed Licenses Issued	13,396	Renewed Licenses Issued	706	706
Total Population	29,582	Total Population	29,592	29,592
MASSAGE THERAPY INSTRUCTOR		MASSAGE THERAPY INSTRUCTOR		
New Licenses Issued	206	New Licenses Issued	14	14
Renewed Licenses Issued	596	Renewed Licenses Issued	31	31
Total Population	1,399	Total Population	1,412	1,412
MASSAGE ESTABLISHMENTS		MASSAGE ESTABLISHMENTS		
New Licenses Issued	859	New Licenses Issued	14	14
Renewed Licenses Issued	476	Renewed Licenses Issued	31	31
Total Population	2,499	Total Population	1,412	1,412

MESSAGE THERAPY ADVISORY BOARD

NOVEMBER 12, 2019

OCCUPATIONAL AND TECHNICAL SERVICES

Lorraine Sroufe attended the Federation of State Massage Therapy Boards (FSMTB) Annual Meeting for Massage Therapy on October 3-5th, 2019.

Key Points of Interest regarding changes and updates for FSMTB

- 40 state delegates were represented at the annual meeting
- FSMTB is in the process of hiring customer service staff which will be available to applicants by 05/01/2020
- Over 50 personal contacts were made with other state boards and FSMTB staff.
- Charlene Russell will be the new board president for FSMTB
- Membership dues will go up from \$2,800 to \$3,500 maximum effective 07/01/2020

STATISTICS AND TRENDS

CONTINUING EDUCATION PROVIDERS

(AS OF SEPTEMBER 30TH, 2019)

FY2019 - 20	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
NEW PROVIDER	3	-	-	3	-	-	-	0	-	-	-	0	-	-	-	0	3
PROVIDER RENEWED	0	-	-	0	-	-	-	0	-	-	-	0	-	-	-	0	0
TOTAL MAS PROVIDER	447	-	-	447	-	-	-	0	-	-	-	0	-	-	-	0	447
TOTAL CE PROVIDER	1,743	-	-	1,743	-	-	-	0	-	-	-	0	-	-	-	0	1,743
FY2018 - 19	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
NEW PROVIDER	4	1	3	8	2	4	5	11	5	11	6	22	2	6	3	11	52
PROVIDER RENEWED	1	25	7	33	0	1	0	1	0	1	0	1	0	0	0	0	35
TOTAL MAS PROVIDER	475	478	449	449	446	450	443	443	447	456	462	462	452	455	449	449	449
TOTAL CE PROVIDER	969	976	922	922	894	917	909	909	918	953	937	937	930	933	925	925	925

MASSAGE SCHOOLS

(AS OF SEPTEMBER 30TH, 2019)

FY2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL SCHOOLS	62	-	-	62	-	-	-	0	-	-	-	0	-	-	-	0	62

JURISPRUDENCE EXAMINATION

(AS OF SEPTEMBER 30TH, 2019)

FY2019 - 20	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
JP EXAM FOR MT	174	-	-	174	-	-	-	0	-	-	-	0	-	-	-	0	174
FY2018 - 19	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
JP EXAMS FOR MT	156	169	201	526	133	171	166	470	254	219	232	705	171	230	203	604	2,305
FY2017 - 18	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
JP EXAM FOR MT	0	1	195	196	148	174	135	457	187	208	209	604	200	228	198	626	1,883

AUDITS

(AS OF NOVEMBER 30TH, 2019)

FY2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
LICENSEE CE AUDITS	25	25	25	75	-	-	-	0	-	-	-	0	-	-	-	0	75
FY2019	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
LICENSEE CE AUDITS	0	0	0	0	0	75	50	125	10	0	50	60	1	39	25	65	250

Massage Therapy Advisory Board

Enforcement Division Staff Report November 19, 2019

Case Highlights

- Case No. MAS20190001711& MAS20190001713- Footy Rooty Development, Inc. d/b/a Footy Rooty Foot Care & Massage

On September 17, 2019, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Footy Rooty Development, Inc. As part of this negotiated settlement, Respondent accepted liability for: (i) two separate counts of employing an unlicensed person to perform massage therapy on the premises of massage therapy establishment, and (ii) one count of failing to maintain and secure initial client consultation documents. To resolve these violations, Respondent agreed to pay the Department an administrative penalty of \$3,000 for MAS20190001713 and \$1,875 for MAS20190001711, for a total penalty of \$4,875.

- Case No. MAS20180014490 - Lionel Payne

On or about December 16, 2005, Respondent was issued Massage Therapist License number MT048958.

On or about June 14, 2019, in Cause Number 2018CR8730, in the 144th District Court, Bexar County, Texas, Respondent pled nolo contendere to the charge of sexual assault and received deferred adjudication.

If a person is convicted or pleads guilty/nolo contendere to prostitution or some other sexual offense, or received deferred adjudication for the same, then as per TEX. OCC. CODE CH. 455, their massage therapist license (or massage establishment license, massage school license, massage therapist license, or massage therapy instructor license, as appropriate) is revoked, and that person becomes permanently ineligible for licensure.

Thus, on July 25, 2019, the Department notified Respondent that his Massage Therapist license was revoked by operation of law, effective March June 14, 2019, i.e., the date Respondent received deferred adjudication for the charge of sexual assault. And as his crime is a sexual offense, he is now permanently ineligible for a massage therapy's license.

- Case No. MAS20190013216 & MAS20190013220 - Yuqing Qu d/b/a Natural Massage Care, d/b/a Q Foot Spa, and d/b/a Harmony Reflexology

On August 28, 2019, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Yuqing Qu. As part of this negotiated settlement, Respondent accepted liability for the following violations found during three inspections the Department made of Respondent’s multiple businesses: (i) two separate counts of failing to maintain and secure client records, as Respondent failed to maintain any consultation documents, session notes, or client related billing records for any clients of her business, and (ii) three separate counts of employing an unlicensed person to perform massage therapy on the premises of massage therapy establishment. To resolve these violations, Respondent agreed to pay the Department an administrative penalty of \$1,500 for MAS201913204, \$4,500 for MAS20190013216, and \$1,500 for MAS20190001711, for a total penalty of \$7,500.

- MAS20180006907 - Sting Ray Salgado

On September 20, 2019, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Sting Ray Salgado. As part of this negotiated settlement, Respondent accepted liability for sexual assaulting a client during a massage therapy session. To resolve this violation, Respondent agreed to a lifetime ban from licensure as either a massage therapy or as a massage therapy establishment owner.

Key Statistics – Fiscal Year 2019

Shown below are key statistics for the Massage Therapy program and for all TDLR programs combined for Fiscal Year 2019.

<u>Statistic</u>	<u>MAS</u>	<u>TDLR</u>
• Number of cases opened:	1,250	10,902
• Number of cases resolved:	1,263	10,113
• Number of Final Orders:	218	1,887
• Total amount of penalties assessed:	\$386,325	\$3,394,345
• Total amount of penalties collected:	\$311,371	\$1,731,554

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 Final Orders:	35	2,037
• 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 Division Report



The Face of TDLR

November 19, 2019

MOST COMMON VIOLATIONS FOUND DURING INSPECTIONS

Licensed Massage Therapy Establishment Most Common Violations Found During Inspections
Fiscal Year 2019 Quarter 4

1. **16 Tex. Admin. Code Ch. 117.82(h)(2)**. Failure to maintain a current list of all establishment employees and/or contractors.
2. **16 Tex. Admin. Code Ch. 117.90(g)**. Failed to post the Consumer Compliant sign in public view.
3. **16 Tex. Admin. Code Ch. 117.91(a)(1)**. Fail to provide an initial consultation to each client before the massage therapy session and obtain the signature of the client on the consultation document.
4. **16 Tex. Admin. Code Ch. 117.90(f)**. Failure to keep accurate records of the dates of massage therapy services, types of massage therapy and billing information. Such records must be maintained for a minimum of two years.
5. **16 Tex. Admin. Code Ch. 117.82(a)(3)**. Failed to maintain a completed I-9 form for an employee or a copy of the signed contract if an independent contractor or under a contract labor agreement.
6. **16 Tex. Admin. Code Ch. 117.91(a)(3)**. The consultation document shall include a statement that that the licensee shall not engage in breast massage of female clients without the written consent of the client.
7. **Tex. Occ. Code Ch. 455.204(b); 16 Tex. Admin. Code Ch. 117.23(b)**. Failure to post the license for each massage therapist who practices in the massage establishment.
8. **16 Tex. Admin. Code Ch. 117.83(j)**. Failure to wash used towels in chlorinated hot water.
9. **16 Tex. Admin. Code Ch. 117.91(a)(4)**. The consultation document shall include a statement that draping will be used during the session, unless otherwise agreed to in writing by both the client and the licensee.
10. **16 Tex. Admin. Code Ch. 117.82(c)**. A massage establishment must maintain separation from rooms used wholly or in part for residential or sleeping purposes by a solid wall or by a wall with a solid door which shall remain locked during business hours.

Licensed Massage Therapy Schools Most Common Violations Found During Inspections
Fiscal Year 2019 Quarter 4

1. **16 Tex. Admin. Code Ch. 117.67(b)**. Progress reports are based on grading periods. A grading period shall not cover more than 25% of the required program hours.
2. **16 Tex. Admin. Code Ch. 117.68(j)**. School failed to maintain a master record of attendance.
3. **16 Tex. Admin. Code Ch. 117.62(c)**. School failed to maintain a student-signed, department-approved acknowledgment form to verify the prospective student's receipt of the massage school enrollment procedures.
4. **16. Tex. Admin. Code Ch. 117.64(c)**. Failure to keep student enrollment agreements and contracts. for at least three years.
5. **16. Tex. Admin. Code Ch. 117.68(i)**. A student shall be granted only one leave of absence for each 12-month period, not to exceed the lesser of thirty (30) school days or sixty (60) calendar days.

Division Updates

Change to Periodic Inspections

HB 2847 changed the inspection period for salons. Cosmetology salons are now inspected at least once every four years and specialty salons that perform manicure and pedicure services are inspected at least once every two years.

Personnel Updates

As part of the new organizational chart, Field Inspections expanded from three to four regions, adding a Central Region Manager and Liaison. We also added a new designation of Inspector V and interviewed for the positions in mid-September.

Congratulations to Juan Muñoz, who accepted the position of manager for the newly created Field Inspections Central Region and Angela Sanders, who accepted the position of Field Inspections Liaison. Their new roles began September 16.

Congratulations to Heather Allen, Tisha Cantu, Lance Caroland, Abraham Delgado, Michael Hanna, and Jorge Vega, current TDLR Field Inspectors, who accepted the new Field Inspections Inspector V positions, effective October 15.

Patrick Kane, an external applicant, accepted the Inspector V position and began on November 4. Congratulations Patrick!

Congratulations to Suzanne Creed, North Region inspector, who accepted a position as an Investigator for the Enforcement division, effective November 4.

Congratulations to James Turner for his promotion from Field Inspector to the North Region Liaison, effective November 15.

FIELD INSPECTIONS STATISTICS

Massage Establishments

	FY 2020	FY 2019
SEPT	24	32
OCT		106
NOV		87
QTR 1	24	225
DEC		51
JAN		64
FEB		46
QTR 2		161
MAR		58
APR		91
MAY		65
QTR 3		214
JUNE		44
JUL		33
AUG		29
QTR 4		106
Year to Date/ Year End	24	706

Massage Schools

	FY 2020	FY 2019
SEPT	3	5
OCT		6
NOV		5
QTR 1	3	16
DEC		1
JAN		1
FEB		0
QTR 2		2
MAR		0
APR		0
MAY		3
QTR 3		3
JUNE		1
JUL		5
AUG		3
QTR 4		9
Year to Date/ Year End	3	30

Regulatory Program Management Staff Report

Texas Department of Licensing and Regulation

Massage Therapy Advisory Board Meeting

November 19, 2019

Personnel Update

- Effective September 1, 2019, the Massage Therapy Program was moved to the Medical and Health Professions (MHP) Section within the Regulatory Program Management Division. Heather Muehr is the current MHP Section Manager. Heather was a former Massage Therapy Program Director when the program was with the Department of State Health Services.

Update Regarding Massage Therapy Program Activities

- RPM staff continue to assist Enforcement, Field Inspections, Licensing, and Customer Service with questions that arise during investigations, inspections, as well as addressing complex industry questions and emails.
- Marinela LaFleur and Jerry Gonzalez continue to work with members of the multi-division Massage Therapy Bill Implementation Team (BIT) to implement statutory revisions from the 86th Legislative Session.
- RPM staff are available to attend conferences. Please let Jerry Gonzalez know if you have any outreach opportunities.

Update Regarding Medical & Health Professions Section Activities

- MHP routinely distributes issues of *The Health Monitor* newsletter for the medical and health professions programs. The June 2019 edition of the newsletter contains an overview of statutory revisions from this last Legislative Session that affect the Massage Therapy Program. Recent versions of the newsletter may be found on the Massage Therapy home page. Links to previous issues can be found under Agency Newsletters on the main TDLR webpage. The newsletter is a great way to distribute information to many licensees. Please let Jerry Gonzalez know if you have article ideas.