

**MASSAGE THERAPY STATISTICAL REPORT**  
**December 17, 2018**

<b>MASSAGE THERAPIST</b>	<b>FY 18</b>	<b>FY 19</b>
<b>New Licenses Issued</b>	<b>1,518</b>	<b>331</b>
<b>Renewed Licenses Issued</b>	<b>12,673</b>	<b>2,272</b>
<b>Total Population</b>	<b>30,535</b>	<b>30,954</b>
<b>MASSAGE THERAPY INSTRUCTOR</b>		
<b>New Licenses Issued</b>	<b>150</b>	<b>34</b>
<b>Renewed Licenses Issued</b>	<b>443</b>	<b>89</b>
<b>Total Population</b>	<b>1,378</b>	<b>1,414</b>
<b>MASSAGE ESTABLISHMENTS</b>		
<b>New Licenses Issued</b>	<b>714</b>	<b>134</b>
<b>Renewed Licenses Issued</b>	<b>477</b>	<b>83</b>
<b>Total Population</b>	<b>2,100</b>	<b>2,224</b>



**MESSAGE THERAPY ADVISORY BOARD**

December 17, 2018

**Education Services Updates**

The Education and Examination Division has developed and implemented a process for auditing classroom and online Continuing Education Providers. Currently, 30 classrooms and 17 online audits have been performed. Also, assistance was provided to the Enforcement Division with an audit/investigation of a Drug and Alcohol Driving Awareness Program Provider.

**Education Workgroup Updates****Meetings:**

- November 12, 2018
- December 17, 2018

We are currently working to improve the rules for massage school requirements. Board members and staff are researching and gathering information from the industry as we work to establish reasonable standards and requirements for future recommendations.

## STATISTICS

### Massage CE Providers

Massage CE Providers FY 2019	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
New Providers	4	1		5				0				0				0	5
Provider Renewed	1	25		26				0				0				0	26
Total MAS Providers	475	478		478													478
Total CE Providers	969	976		976													976

\*As of November 1, 2018

### Massage Schools

Massage Schools FY 2019	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Total Schools	62	62		62				0				0				0	62

\*As of November 1, 2018

### JP Exams

Massage Therapy FY - 2018	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Jurisprudence Exam for Massage Therapy	0	1	195	196	148	174	135	457	187	208	209	604	200	228	198	626	1,883
Massage Therapy FY - 2019	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Jurisprudence Exam for Massage Therapy	156	169	-	325	-	-	-	0	-	-	-	0	-	-	-	0	325

\*As of November 1, 2018

## **Massage Therapy Advisory Board**

### **Enforcement Division Staff Report December 17, 2018**

#### **Case Highlights**

##### **Case No. MAS20180005949 - Footy Rooty Development, Inc. d/b/a Footy Rooty Foot Care & Massage**

On June 18, 2018, 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 publishing advertisements (both on storefront signage and on internet/social media websites) that represented its Corpus Christi location to be a massage establishment where “massage” and “body massage” services could be performed. In fact, this location first became licensed as a massage establishment on May 20, 2018, i.e., after the Department investigated the premises in April. The Department also confirmed the Corpus Christi Footy Rooty first began representing itself as a licensed massage establishment on or about May 25, 2017, more than a year before it acquired licensure. To resolve this violation, Respondent agreed to pay the Department an administrative penalty of \$1,875.

##### **Case No. MAS20180003462 – Chongya Ke d/b/a Asian Massage**

On September 12, 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, the owner of the licensed massage establishment Asian Massage, accepted liability for the business’s failure to maintain and secure the initial consultation documents, session notes, and related billing records for any of Asian Massage’s clients. To resolve this violation, Respondent agreed to pay the Department an administrative penalty of \$1,750.

##### **Case No. MAS20180004910 – Gevin Tipsword d/b/a Relaxation Station**

On November 2, 2018, the Executive Director granted the Department’s Motion for Default against Respondent. The resulting Order found Respondent, a licensed massage therapist and owner of the business Relaxation Station, liable for operating a business where massage therapy was practiced without a proper license. Based on that finding, the Order assessed Respondent an administrative penalty of \$2,500.

This violation was discovered during the Department’s investigation of the initial complaint, which alleged Respondent committed sexual assault during a massage therapy session. After conferring with the Complainant’s civil attorney, the Department prosecuted the unlicensed activity violation only while the Complainant will pursue the latter claim as part of her civil suit against Respondent.

**Case No. MAS20180003102- Yueli Ke**

On or about January 24, 2011, Respondent was issued Massage Therapist License no. MT112334. On or about March 26, 2013, in the District Court of Worcester, Massachusetts, Respondent pled guilty or its legal equivalent(s) to the offense of Sexual Conduct for Fee.

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 August 2, 2018, the Department notified Respondent that her Massage Therapist license was revoked by operation of law, effective March 26, 2013, i.e., the date of Respondent's conviction for Sexual Conduct for Fee.

**Case No. MAS20180008989- Chiu Hao Wu d/b/a Blue Sea Spa**

On or about December 7, 2017, the Department issued Respondent a Massage Therapy Establishment License, license no. ME4187. Later, while investigating Respondent's criminal history, the Department discovered this license had to be revoked, as Respondent was ineligible for licensure.

Specifically, on September 21, 2015 in Tarrant County, Texas, Respondent received deferred adjudication for a charge of Simple Assault. This Assault was predicated an illegal sexual act, and thus is considered by the Department to be a sexual offense.

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 existing massage establishment license is revoked, and that person becomes permanently ineligible for licensure.

Thus, on August 29, 2018, the Department notified Respondent her Massage Therapy Establishment License was revoked by operation of law, effective September 21, 2015, i.e., the date Respondent received deferred adjudication for the charge of Simple Assault predicated on an illegal sexual act.

## **Key Statistics**

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

<b><u>Statistic</u></b>	<b><u>MAS</u></b>	<b><u>TDLR</u></b>
• Number of cases opened:	126	1,831
• Number of cases resolved:	151	1,672
• Number of Agreed Orders:	14	202
• Total amount of penalties assessed:	\$24,500	\$519,980
• Total amount of penalties collected:	\$19,185	\$211,030

# Massage Therapy Advisory Board Meeting Field Inspections Division Report

 **The Face of TDLR**  
December 17, 2018

## **MOST COMMON VIOLATIONS FOUND DURING INSPECTIONS**

Licensed Massage Therapy Establishment Most Common Violations Found During Inspections  
Fiscal Year 2018 Quarter 4

1. **16 Tex. Admin. Code Ch. 117.82(a)(1-3)** A massage establishment shall employ or contract with only licensed massage therapists to perform massage therapy or other massage services. Documentation of the employment or contract relationship and verification that the licensed massage therapist is a United States citizen or a legal permanent resident with a valid work permit shall be maintained by the massage establishment and made available during an inspection or investigation.
2. **16 Tex. Admin. Code Ch. 117.82(h)(2)** A massage establishment shall maintain a current list of all establishment employees and/or contractors at all times which includes: (A) full name; and (B) license number and expiration date (if licensed as a massage therapist).
3. **Tex. Occ. Code Ch. 455.204(b); 16 Tex. Admin. Code Ch. 117.23(b)** Each massage establishment must post in plain sight the license for each massage therapist who practices in the massage establishment.
4. **16 Tex. Admin. Code Ch. 117.83(i)** Soiled sheets are to be discarded. After a sheet has been used once, it shall be deposited in a closed or partially closed receptacle, container, or basket, and shall not be used again until properly washed and disinfected.
5. **16 Tex. Admin. Code Ch. 117.91(a)(1)** The consultation document shall include the type of massage therapy services or techniques the licensee anticipates using during the massage therapy session.
6. **16 Tex. Admin. Code Ch. 117.91(a)(2)** The consultation document shall include the parts of the client's body that will be massaged or the areas of the client's body that will be avoided during the session, including indications and contraindications.
7. **16 Tex. Admin. Code Ch. 117.83(c)** Toilet facilities shall be kept clean, sanitary, and in working order at all times. Restrooms shall not be used as storage rooms.
8. **Tex. Occ. Code Ch. 455.204(b); 16 Tex. Admin. Code Ch. 117.23(b)** A massage establishment shall properly maintain and secure for each client the initial consultation documents, all session notes, and related billing records.
9. **16 Tex. Admin. Code Ch. 117.90(f)** For each client, a licensee shall 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.

**10. 16 Tex. Admin. Code Ch. 117.91(a)(3)** The consultation document shall include a statement that the licensee shall not engage in breast massage of female clients without the written consent of the client.

## **PREVENTION OF HUMAN TRAFFICKING**

Field Staff continue to work closely with Jennifer Harless, TDLR's Strategic Response Coordinator, on identifying, reporting, and documenting human trafficking during massage establishment inspections. Liaisons Ulises Ossio, Shawn O'Neal, and Juan Muñoz are drafting procedures for inspectors who encounter signs of human trafficking during inspections.

Ronald Gericke, North Region Field Inspector, attended a Human Trafficking awareness meeting in Fort Worth, sponsored by All Saints Catholic Church and the Northside Neighborhood Association on October 10, 2018.

## **PERSONNEL UPDATES**

We posted an Inspector position in the DFW area that closed on November 2. We are reviewing applications and will conduct interviews the last week of November.

# FIELD INSPECTIONS STATISTICS

## Massage Establishments

	MAS	
	FY 2019	FY 2018
SEPT	32	
OCT	106	
NOV		
<b>QTR 1</b>	<b>138</b>	
DEC		
JAN		
FEB		
<b>QTR 2</b>		
MAR		
APR		3
MAY		8
<b>QTR 3</b>		<b>11</b>
JUNE		29
JUL		43
AUG		11
<b>QTR 4</b>		<b>83</b>
<b>Year to Date/ Year</b>		
<b>End</b>	<b>138</b>	<b>94</b>

## Massage Schools

	Massage Schools	
	FY 2019	FY 2018
SEPT	5	
OCT	6	
NOV		
<b>QTR 1</b>	<b>11</b>	
DEC		
JAN		
FEB		1
<b>QTR 2</b>		<b>1</b>
MAR		
APR		
MAY		
<b>QTR 3</b>		
JUNE		
JUL		3
AUG		6
<b>QTR 4</b>		<b>9</b>
<b>Year to Date/ Year</b>		
<b>End</b>	<b>11</b>	<b>10</b>

**Highlighted numbers were completed by the E&E division.**

**Regulatory Program Management Division Staff Report**

**Massage Therapy Advisory Committee Meeting**

December 17, 2018

**Update and Discussion Regarding Massage Therapy Program Activities**

- Elizabeth Perez and Marinela LaFleur participated in the Standard of Care Workgroup meeting held on November 16, 2018 to review, discuss and develop recommendations on the proposed rules.
  
- Elizabeth and Marinela have been conducting research and creating a state by state massage therapy substantial equivalency requirement guide.
  
- The agency's internal Barber, Cosmetology and Massage Therapy Taskforce team met on November 14, 2018. The goal of these Taskforce meetings is to ensure consistency in interpretations and in the application of the statutes, rules and requirements.
  
- 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 questions and emails.