

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
Department of State, Bureau of Professional and Occupational
Affairs, State Board of Massage Therapy

(2) Agency Number: 16A
Identification Number: 726

(3) PA Code Cite:
49 Pa. Code §§ 20.61 and 20.62

(4) Short Title:
Practice of Massage Therapy in Cosmetology or Esthetician Salons

(5) Agency Contacts (List Telephone Number and Email Address):
Primary Contact: Thomas M. Davis, Regulatory Counsel, State Board of Massage Therapy, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) tmdavis@pa.gov.
Secondary Contact: Cathy A. Tully, Board Counsel, State Board of Massage Therapy, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) catully@pa.gov.

6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 FINAL REGULATION
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Massage Therapy's joint regulations with the State Board of Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

(8) State the statutory authority for the regulation. Include specific statutory citation.

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

RECEIVED

Independent Regulatory
Review Commission
November 4, 2024

IRRC Number: 3392

The act of September 24, 2014, (P.L. 2476, No. 136) amended the Cosmetology Law (63 P.S. §§ 507 – 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Section 9.3(d) of the Cosmetology Law requires the Board and the State Board of Cosmetology to jointly promulgate final regulations to carry out the provisions of section 9.3.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is required by section 9.3(d) of the Cosmetology Law, which provides that the Board and the State Board of Cosmetology shall jointly promulgate final regulations to carry out the provisions of section 9.3. Otherwise, it is not required by any Federal or state law or court order, or Federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

While section 9.3 of the Cosmetology Law authorizes massage therapists to practice massage therapy within the approved premises of licensed cosmetology and esthetician salons under specified conditions, section 9.3 also compels the Board and the State Board of Cosmetology to promulgate joint regulations to clarify requirements set forth in the law which will ensure safety of individuals receiving massage therapy services in salons.

There are approximately 8,693 licensed massage therapists in this Commonwealth, and the rulemaking will benefit every massage therapist who has contemplated working in a cosmetology or esthetician salon that offers massage therapy services, because the rulemaking addresses the responsibilities of salon owners, massage therapists, cosmetologists and estheticians working in such a salon.

In this Commonwealth, there are approximately 13,960 licensed cosmetology salons and approximately 2,728 licensed esthetician salons (16,688 salons in total). The Board and the State Board of Cosmetology estimate that as many as one half of these salons in the Commonwealth offer massage therapy services. Therefore, approximately 8,344 salons may be affected by the regulation.

The rulemaking will benefit individuals working in salons that offers massage therapy services and will also benefit individuals receiving such services. Section 9.3 modernizes the Cosmetology Law to reflect the developments in the spa industry. While some adjustments may need to occur to accommodate massage therapy within salons due to size requirements of massage therapy rooms, such adjustments will improve the services and help ensure the safety of individuals receiving such services.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions more stringent than federal standards, as there are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Of the thirteen (13) states that make up the Northeast quadrant of the United States, none of them prohibit massage therapy from being practiced in a cosmetology or esthetician salon, accordingly, none of them address privacy concerns with relation to massage therapy clients in cosmetology or esthetician salons. In the Commonwealth, the practice of massage therapy was not permitted in cosmetology or esthetician salons until the passage of Act 136 of 2014 (63 P.S. § 515.3) (section 9.3), which was approved on September 24, 2014. Section 9.3 positively affects the Commonwealth's ability to compete, by allowing cosmetology or esthetician salons in the Commonwealth to hire massage therapists and offer massage therapy services. Much of this rulemaking clarifies and implements section 9.3 of the Cosmetology Law and sets forth the responsibilities of massage therapists when practicing in cosmetology or esthetician salons. The privacy standards are based on the statutory requirements of section 9.3, which defines appropriate levels of privacy for massage clients when massage therapists are practicing in cosmetology or esthetician salons.

Section 20.62(a)(2)(ii)(A) provides that massage therapy rooms be a minimum of 90 square feet in size, which is a generally accepted industry minimum standard based on the size of a standard massage table (73 inches × 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). Being that 90 square feet is an industry minimum standard size for massage therapy rooms, massage therapists nationwide are expected to perform massage therapy in rooms no smaller than 90 square feet, and such a requirement should come as no surprise to licensed massage therapists.

Accordingly, this regulation will not adversely affect Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking does not affect other regulations of the Board or other state agencies. The rulemaking is being jointly promulgated with the State Board of Cosmetology.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This rulemaking was discussed on the record at no fewer than 16 regularly scheduled Board meetings between December 2014 and February 2020. The regional developer of Massage Envy Spa (the largest franchise provider of therapeutic massages and skin care in the United States, with 25 locations in the Commonwealth of Pennsylvania) attended the February 2015 meeting and aided the Massage Board in drafting the language of the Annex. The State Board of Cosmetology provided input on April 7, 2015, when the decision was originally made to require that massage therapy rooms established within the square footage of a salon be a minimum of 120 square feet (now 90 square feet), and regulated community provided additional input at the June 9, 2015 Board meeting.

Between 2015 and 2019, the Board explored the possibility of incorporating the provisions of section 9.3 of the Cosmetology Law in a proposed "general revisions" regulation. However, between 2019 and 2021, it became clear that combining this rulemaking with the Board's general revisions regulation was too cumbersome and would further delay the Board and the State Board of Cosmetology from promulgating

the regulations as directed by the General Assembly. Accordingly, in an effort to move this rulemaking forward, the Board separated these provisions from the general revisions rulemaking package.

An exposure draft was released to interested parties and stakeholders (including the American Massage Therapy Association (AMTA), Associated Bodywork & Massage Professionals (ABMP), Federation of State Massage Therapy Boards (FSMTB), National Certification Board for Therapeutic Massage & Bodywork (NCBTMB), and numerous other professional associations and individuals) on November 4, 2020. At the February 16, 2021, Board meeting, the Board was informed that no comments were received in response to the exposure draft. A list of the stakeholders is attached as Attachment "A."

Notice of the proposed rulemaking was published at 53 Pa.B. 7908 (December 16, 2023). Publication was followed by a 30-day public comment period during which the boards received two public comments. The Independent Regulatory Review Commission (IRRC) submitted its comment letter on February 15, 2024. The Consumer Protection and Professional Licensure Committee of the Senate (SCP/PLC) and the Professional Licensure Committee of the House of Representatives (HPLC) did not submit comments.

After review of all comments received, at the Boards' respective, regularly scheduled February 2024 and April 2024 meetings, the Boards debated the reasonableness of reducing the minimum massage therapy room size from 120 square feet to 90 square feet. While 120 square feet is a generally accepted industry standard based on the size of a standard massage table (73 inches × 30 inches) and which allows room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table), based on both the comments recently received, as well as the information previously received from Massage Envy, the Board and the State Board of Cosmetology agreed that reducing the minimum massage therapy room size from 120 square feet to 90 square feet should satisfy the commentors while still protecting the public by requiring a massage therapist to have sufficient room to safely maneuver around a standard-sized massage table.

With the reduction from 120 to 90 square feet, the Board and the State Board of Cosmetology decided that there would be no need to provide a process for exemptions or waivers and that delayed implementation would not be necessary. The only licensees requesting exemptions, variances, or delayed implementation would be licensees allowing the practice of massage therapy in rooms smaller than 90 square feet. It would pose a safety risk to expect a massage therapist to safely perform massage therapy multiple times a day in any room smaller than 90 square feet. No commentor requested that the minimum room size be less than 90 square feet. Accordingly, no further concessions are necessary or appropriate.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

According to the Small Business Administration (SBA), there are approximately 1,095,907 businesses in Pennsylvania; of which 1,091,524 are small businesses. Of the 1,091,524 small businesses, 226,483 are small employers (those with fewer than 500 employees) and the remaining 865,041 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

All licensed massage therapists working in cosmetology or esthetician salons will be impacted by this rulemaking because it sets forth requirements for massage therapy rooms in cosmetology or esthetician salons. Additionally, cosmetology and esthetician salons will be impacted if they choose to offer massage therapy services within the salon.

According to the Pennsylvania Department of Labor and Industry (Department of Labor & Industry), in 2020, massage therapists held about 144,600 jobs nationally, and are employed in the following private sector positions: self-employed workers (35%); offices of all other health practitioners (23%); other amusement and recreation industries (3.25%) and accommodation (.25%). There are approximately 8,693 licensed massage therapists in this Commonwealth.

According to the Department of Labor & Industry, in 2020, cosmetologists held approximately 569,600 jobs nationally, and approximately 12,689 within this Commonwealth, and are employed in the following private sector positions: personal care services (46%); self-employed workers (43%); retail trade (10%). Estheticians held approximately 68,700 jobs nationally, and approximately 2,063 in this Commonwealth and are employed in the following private sector positions: personal care services (40%); self-employed workers (31%); offices of physicians (4%), other amusement and recreation industries (1.4 %) and traveler accommodation (1.1%).

In this Commonwealth, there are approximately 79,533 cosmetologists, 8,787 estheticians, and 13,860 nail technicians. Furthermore, there are approximately 13,960 licensed cosmetology salons and approximately 2,728 licensed esthetician salons (16,688 salons in total). The boards estimate that as many as one half of the cosmetology and esthetician salons in the Commonwealth offer massage therapy services. Therefore, approximately 8,344 cosmetology and esthetician salons may be affected by the regulation.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the Small Business Administration (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the 2022 NAICS standards to the types of businesses that would be impacted by this rulemaking, a small business is one that has \$8.5 million or less in average annual receipts for cosmetology (beauty) salons (812112) and businesses that offer other personal services (812199).

The Board does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, because 99% of all businesses in the Commonwealth are small businesses, the Board must assume that a large number of its licensees either are or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

This rulemaking only affects salons that choose to allow for the practice of massage therapy and massage therapists who practice in those salons.

The Boards' joint decision to require a minimum of 90 square feet for massage therapy rooms in cosmetology and esthetician salons is expected to have a minimal effect on the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Most, if not all massage therapy rooms currently in use should already be a minimum of 90 square feet in size because that is a generally accepted industry minimum standard based on the size of a standard massage table (73 inches × 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). This rulemaking will have an overall positive effect on salons, massage therapists, and massage clients, because it will require that massage therapy services be provided in a room large enough to safely accommodate the massage therapist, the massage table, and the client.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Only those licensees who wish to offer massage services in salons will be required to comply with the rulemaking. Salon owners who decide to offer massage therapy services (approximately 8,344), and massage therapists who provide services in salons, will be required to comply with the rulemaking. The Board does not track licensee places of business. Additionally, many licensees work on a part-time basis, and many licensees are believed to work at multiple locations. Accordingly, there is no way to properly estimate how many massage therapists currently work in cosmetology or esthetician salons.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This rulemaking is authorized by section 9.3(d) of the Cosmetology Law, which requires that the Board and the State Board of Cosmetology jointly promulgate final regulations to carry out the provisions of section 9.3. In drafting this rulemaking, the Boards determined that they must establish a minimum room size for massage therapy rooms in cosmetology and esthetician salons.

Much of this rulemaking reiterates section 9.3 of the Cosmetology law, but it plays an important role, which is to inform massage therapists of their rights and responsibilities under the Cosmetology Law by reproducing the content of section 9.3 in the Board's regulations. Beyond that, the rulemaking defines an appropriate level of privacy for massage clients in cosmetology or esthetician salons.

The decision to require a minimum of 90 square feet for massage therapy rooms in cosmetology or esthetician salons is expected to have a minimal effect on the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. The 90-square-foot room requirement will only affect salon owners who elect to offer massage therapy services. Some cosmetology or esthetician salons may have to undergo renovations to meet the 90-square-foot requirement; and if this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only cosmetology or esthetician salons that have made this cost/benefit analysis will undergo renovations, and the logical conclusion would be that the cosmetology or esthetician salons spending money on renovations have determined that to do so would be in their economic interests because benefits outweigh costs. This regulation will have an overall positive effect on cosmetology or esthetician salons, massage therapists, and massage clients, because it will require that massage therapy services be provided in a room large enough to safely accommodate the massage therapist, the massage table, and the client.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This rulemaking is required by section 9.3(d) of the Cosmetology Law, which provides that the Board and the State Board of Cosmetology jointly promulgate final regulations to carry out the provisions of section 9.3. The rulemaking requires massage therapy rooms in cosmetology and esthetician salons be at least 90

square feet in size. The Board, in conjunction with the State Board of Cosmetology, and with input from stakeholders, determined it was necessary to establish specific square footage for massage therapy rooms in salons because the regulations of the State Board of Cosmetology at § 7.76 (relating to floor space) set forth room sizes for cosmetologists that do not take into consideration the different needs of massage therapy.

The benefits of requiring that cosmetology or esthetician salons provide massage therapists with rooms that are at least 90 square feet in size outweigh the costs because establishing massage therapy room size is necessary to provide for a safe environment. Most, if not all massage therapy rooms currently in use should already be a minimum of 90 square feet in size because that is a generally accepted industry minimum standard based on the size of a standard massage table (73 inches × 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). Additionally, it is safer because along with the massage therapy table, the room must fit all the typical massage therapy supplies to include oils and towels. Moreover, clients typically use the massage therapy room to disrobe and transition to the massage therapy table. This will require a chair, as well as clothing storage such as clothing hooks or a shelving unit. The Boards believe allowing a massage therapist to perform massage therapy, multiple times a day, in any room smaller than 90 square feet would be a safety risk.

Only those cosmetology or esthetician salons that offer massage therapy services will have to ensure that the separate massage therapy room(s) have the required square footage. Some of these salons may have to undergo renovations to meet the 90-square-foot requirement; and if this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only salons that have made this cost/benefit analysis will undergo renovations, and the logical conclusion would be that the cosmetology or esthetician salons undergoing renovations have determined that to do so would be in their economic interests because benefits outweigh costs.

Massage therapists have benefited from section 9.3 of the Cosmetology Law because massage therapy licensees are able to offer services in cosmetology or esthetician salons, and the rulemaking ensures that they will be able practice in an appropriately sized massage therapy room of a minimum of 90 square feet.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Boards do not anticipate any costs to massage therapists but rather, anticipate that the rulemaking will benefit massage therapists because it ensures a safe and appropriate workspace for massage therapy. While many established salons may be able to move a massage therapist from a small room to an appropriately sized room, some salons may incur costs if renovations are necessary to meet the square foot requirements for massage therapy rooms. If this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only salons that have made this cost-benefit analysis will undergo renovations, and the logical conclusion would be that the salons spending money on renovations have determined that to do so would be in their economic interests because benefits outweigh costs.

Any costs associated with renovations done to meet the square foot requirement would vary based upon what renovations would be needed.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The rulemaking will not result in costs or savings to local governments. Should a cosmetology or esthetician salon elect to renovate, permits would likely be required, but this would be a cost borne by a salon owner, not the local government.

(21) Provide a specific estimate of the costs and/or savings to the state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board is not expected to incur any increased costs due to this this rulemaking. Under section 9.3(b) of the Cosmetology Law, massage therapists practicing in salons are subject to inspection by the Board and the State Board of Cosmetology. Currently, the State Board of Cosmetology conducts such inspections because they license the salons. The boards have agreed that the inspections conducted by the State Board of Cosmetology is adequate and any inspections by the Board would be duplicative. In addition to being duplicative inspections, the Board would likely be required to raise its fees to implement an inspection program, impacting all licensees, rather than just those that choose to practice in cosmetology and esthetician salons.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There should be no legal, accounting or consulting procedures associated with this rulemaking.

(22a) Are forms required for implementation of the regulation?

No new forms must be generated by the Massage Board to implement this rulemaking.

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.

No new forms must be generated by the Massage Board to implement this regulation.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
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	24-25	25-26	26-27	27-28	28-29	29-30
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 2021-2022 (actual)	FY -2 2022-2023 (budget)	FY -1 2023-2024 (proposed budget)	Current FY 2024-2025 (projected budget)
State Board of Massage Therapy	\$770,395.29	\$835,000.00	\$794,000.00	\$860,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

The small businesses ultimately subject to this rulemaking are cosmetology or esthetician salons that offer massage therapy services (approximately 8,344).

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

There are no additional reporting, recordkeeping or other administrative costs, imposed by the Board, required for compliance with the rulemaking.

- (c) A statement of probable effect on impacted small businesses.

The impacted small business are cosmetology or esthetician salons that offer massage therapy services. Accordingly, as the decision to offer massage therapy services in a cosmetology or esthetician salon is entirely voluntary, the expected probable impact of this regulation on small businesses is that these businesses will increase revenue.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The Board could discern no less costly or intrusive alternative methods to safely achieve the purpose of the rulemaking. Massage therapy rooms in cosmetology and esthetician salons must be a minimum of 90 square feet in size. Anything smaller would not provide a massage therapist sufficient room to safely maneuver around a standard-sized massage table (73 inches × 30 inches) and keep the necessary supplies at hand. Additionally, massage therapy clients are often asked to position their arms at a 90-degree angle to the body, and the massage therapist must safely maneuver around the client's outstretched arms. Moreover, clients are typically expected to use the massage therapy room to disrobe and transition to the massage therapy table. This will require a chair, as well as clothing storage such as clothing hooks or a shelving unit. It would be a safety risk to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 90 square feet. Accordingly, after discussing this issue at public board meetings, the Board and the State Board of Cosmetology have determined that a minimum room size of 90 square feet is appropriate.

- (25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed for any affected groups or persons.

- (26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The rulemaking was published as proposed on December 16, 2023. In that proposed rulemaking, the Boards would have required the room in which massage therapy services are provided in cosmetology or esthetician salons to be a minimum of 120 square feet. After review of all comments received, the Boards have reduced the minimum massage therapy room size in cosmetology and esthetician salons from 120 square feet to 90 square feet. While 120 square feet is a generally accepted industry standard, the Boards agreed that reducing the minimum massage therapy room size from 120 square feet to 90 square feet should satisfy the commentors while still protecting the public by requiring a massage therapist has sufficient room to safely maneuver around a standard-sized massage table.

- (27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;

The rulemaking does not include reporting requirements or deadlines.

- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

The rulemaking does not include reporting requirements or deadlines. The boards considered a suggestion that implementation/compliance be delayed. However, doing so would jeopardize public safety.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 90 square feet; therefore, the boards did not consider consolidation or simplification of compliance or reporting requirements for small businesses.

- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and

It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 90 square feet; therefore, the boards did not consider different standards for small businesses.

- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 90 square feet; therefore, the boards did not consider an exemption for small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data, studies or references were used to justify the regulation.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: 30 days.
- B. The date or dates on which any public meetings or hearings will be held: N/A
- C. The expected date of the final-form regulation: (Fall 2024).

D. The expected effective date of the final-form regulation: Upon publication as final.

E. The expected date by which compliance with the final-form regulation will be required: Upon publication as final.

F. The expected date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The remaining meeting dates for 2024 are as follows: December 3. The scheduled meeting dates for 2025 are as follows: February 18, April 1, June 24, August 11, September 23 and December 3.

More information can be found on the Board's website (www.dos.pa.gov/massagetherapy).

Attachment A

Groups/Associations and individual contacts

The Upledger Institute, Inc.	American Cranio-Sacral Therapy Association
Kim Kane-Santos, LMT	American Massage Therapy Association
Nancy Porambo	American Massage Therapy Association
Fred Broadbent	American Massage Therapy Association
Kelly Givens	American Medical Massage Association
Jean Robinson	Associated Bodywork & Massage Professionals
Nancy Potter	Associated Bodywork & Massage Professionals
Sharon Puszko	Day-Break Geriatric Massage Project
Sally Hacking	Federation of State Massage Therapy Boards
Ed Portley Jr	Just This Side of Heaven Massage
Christen Weipert	Massage Envy
Donald McConnell	Massage Envy
Melissa Leonard	Massage Envy
Lisa Hulbert	Metro Beauty Academy
Pat Mayrhofer	Nature's Stones Inc.
Leena S. Guptha	NCBTMB
Aaron Shenck	Penn. Association of Private School Administrators
Richard Dumaresq, Ed.D.	Penn. Association of Private School Administrators
Robert Jantsch	Pittsburgh School of Massage Therapy
Odile Atthalin, MA	Rosen Method Open Center
Amy Goldlust	Stateside Associates
Cynthia Johannes-Beecher	WellSpan Center for Mind/Body Health
Angelina Garofalo	WellSpan Center for Mind/Body Health
Angie Ambrust	The Winter Group
Natalie Cook	The Winter Group
Peg Callahan	The Winter Group
Ted Mowatt	Wanner Associates

Groups/Associations with no individual contact listed

American Oriental Bodywork Therapy Association

Federation of State Massage Therapy Boards

Healing Touch International

International Association of Infant Massage

International Massage Association

International Myomassethics Federation, Inc

NAMASTA (North American Studio Alliance)

National Association of Nurse Massage Therapists

Therapeutic Touch International Association

Unaffiliated individuals

Joanne Mengel

Kathy Sankey

November 4, 2024

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

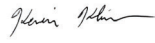
Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

Copy below is approved as
to form and legality.
Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Massage Therapy
(AGENCY)

BY:  _____
Digitally signed by klinkner
DN: dc=LCL, dc=PA, ou=CWOPA,
ou=GC, ou=OGC, ou=USERS,
cn=Klinkner
Date: 2024.10.29 08:59:40 -0400'


DOCUMENT/FISCAL NOTE NO. 16A-726

10/29/2024

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY:  _____
Nancy M. Porambo, LMT

(~~Executive~~ Deputy General Counsel
Strike inapplicable title)

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

NOTICE OF FINAL-FORM RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY
49 PA CODE, CHAPTER 20

§§ 20.61 and 20.62

PRACTICE OF MASSAGE THERAPY IN
COSMETOLOGY OR ESTHETICIAN SALONS

The State Board of Massage Therapy (Board) hereby adds §§ 20.61 and 20.62 (relating to definitions; and practice of massage therapy in cosmetology or esthetician salons) to read as set forth in Annex A.

Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The act of September 24, 2014, (P.L. 2476, No. 136) amended the act of May 3, 1933, (P.L. 242, No. 86) (63 P.S. §§ 507—527), referred to as the Cosmetology Law by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Section 9.3(d) of the Cosmetology Law requires the Board and the State Board of Cosmetology to jointly promulgate final regulations to carry out the provisions of section 9.3.

Background and Purpose

Section 9.3(a) of the Cosmetology Law permits an individual licensed under the Massage Therapy Law (act) (63 P.S. §§ 627.1—627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or a licensed esthetician salon if: (1) the massage therapy licensee is the owner of or employed by the salon and is not an independent contractor; (2) the massage therapist practices in accordance with the Cosmetology Law and the act; (3) the salon owner provides an appropriate level of privacy for clients. Section 9.3(a)(3)(i) and (ii) of the Cosmetology Law provides that no physical barrier is required when the massage therapist is performing services that a cosmetologist or esthetician could perform; however, should the services exceed those within the scope of cosmetology or esthetics a separate room with permanent walls and doors must be utilized. Section 9.3(a)(3)(iii) of the Cosmetology Law further provides that an esthetician may provide services in the separate room that is designated for massage therapy services, so long as the cosmetologist or esthetician and massage therapist are not providing services concurrently.

Under section 9.3(b) of the Cosmetology Law, a licensee is subject to inspection by the Board and the State Board of Cosmetology. A licensee who violates the Cosmetology Law or the act is subject to discipline by the licensee's applicable licensing board. Section 9.3 of the Cosmetology Law was effective on November 24, 2014, and immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the Board's joint regulations with the State Board of Cosmetology is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons. The Board and the State Board of Cosmetology worked together in determining and drafting the joint regulations and received input from regulated communities. The Board and the State Board of Cosmetology agreed to promulgate regulations to address appropriate levels of privacy while practicing massage therapy as well as minimum size requirements for the separate massage therapy room.

Prior to the enactment of section 9.3 of the Cosmetology Law, a patron wishing to receive services from a massage therapist and an esthetician would have to move from one room to another room for each of the requested services. This process was found to be aversive to the relaxing environment salons were attempting to provide for their clients. With the enactment of section 9.3(a)(3)(iii) of the Cosmetology Law, a patron can receive massage therapy and esthetic services all within one room, provided they are not performed concurrently. This final-form rulemaking sets forth the requirements for practicing massage therapy in a cosmetology or esthetician salon. The State Board of Cosmetology is similarly updating its regulations to clarify the standards for massage therapy in its salons and to ensure consistency between the standards of both boards.

Summary of Comments and the Board's Response

Notice of the proposed rulemaking was published at 53 Pa.B. 7908 (December 16, 2023). Publication was followed by a 30-day public comment period during which the Board received two public comments. The Independent Regulatory Review Commission (IRRC) submitted its comment letter on February 15, 2024. The Consumer Protection and Professional Licensure Committee of the Senate (SCP/PLC) and the Professional Licensure Committee of the House of Representatives (HPLC) did not submit comments. The following represents the Board's response to comments received.

A licensed massage therapist with 42 years of experience commented that he found the proposed rulemaking to be “reasonable” and further opined that it “cover[ed] all the required bases except for one,” which is that he found the requirement that massage therapy rooms be a minimum of 120 square feet in size to be “onerous and not really a true requirement for the safe and effective application of massage therapy.” Instead of requiring that massage therapy rooms be a minimum of 120 square feet in size, the commentor suggested that the rulemaking “provide for the safe and effective application of massage therapy allowing for freedom of movement around the perimeter of a standard size massage table.” Furthermore, he suggested that the rulemaking should state that 120 square feet is a guideline; not a requirement.

A second commentor, an individual licensed in both massage therapy and cosmetology, commented that while she understands that a massage therapist must have ample room to safely maneuver around a standard-sized massage therapy table, she believes “a 10 × 10 room or a 10 × 11 room still provides enough room [because] the table can be turned at an angle to access all around.” Furthermore, she suggested that affected individuals “should also be allowed to go before the cosmetology or massage therapy board and ask for an exemption, on a [case-by-case] basis.” Furthermore, the commentor opined that should the Board require that massage therapy rooms be a minimum of 120 square feet in size, some salon owners would likely fire or dismiss their staff massage therapist, rather than renovate the salon to increase the size of their massage therapy room.

IRRC, in its February 15, 2024, comment, cited the second commentor and reiterated that should the boards require that massage therapy rooms be a minimum of 120 square feet in size, “massage therapists currently employed by salons with rooms that do not meet the standard and that choose not to expand to meet the requirement may be negatively impacted.” IRRC asked that the boards “reevaluate ... the reasonableness of the appropriate minimum square-footage

requirement in the final regulation, as well as ways to minimize fiscal impacts from implementation of the final regulation.”

After review of all comments received, the Board and the State Board of Cosmetology have reduced the minimum massage therapy room size in cosmetology and esthetician salons to 90 square feet. When the boards first began working on this rulemaking, representatives from Massage Envy (a franchise network believed to be the largest provider of therapeutic massages and skin care in the United States) suggested that 90 square feet is adequate, and further informed the boards that the minimum size of the treatment rooms at Massage Envy is 90 square feet. At that time, the Board and the State Board of Cosmetology were not convinced that 90 square feet would be sufficient.

At regularly scheduled meetings in February 2024 and April 2024, the Board and the State Board of Cosmetology debated the reasonableness of reducing the minimum massage therapy room size from 120 square feet to 90 square feet. While 120 square feet is a generally accepted industry standard based on the size of a standard massage table (73 inches × 30 inches) and which allows room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table), based on both the comments recently received, as well as the information previously received from Massage Envy, the Board and the State Board of Cosmetology agreed that reducing the minimum massage therapy room size from 120 square feet to 90 square feet should satisfy the commentors while still protecting the public by requiring sufficient room to safely maneuver around a standard-sized massage table.

The Board and the State Board of Cosmetology believe this minimum room size requirement is necessary because the State Board of Cosmetology’s existing regulations at § 7.76(a) (relating to floor space) require an “additional area of at least 60 square feet ... for each additional licensee in the salon,” which could be misinterpreted as applying to massage therapists. A 60-square-foot room does not provide a massage therapist sufficient room to safely maneuver around a standard-sized massage table and keep the necessary supplies at hand. Additionally, massage therapy clients are often asked to position their arms at a 90-degree angle to the body, and the massage therapist must safely maneuver around the client’s outstretched arms. Moreover, clients are typically expected to use the massage therapy room to disrobe and transition to the massage therapy table. Accordingly, massage therapy rooms frequently include a chair, as well as clothing storage such as clothing hooks or a shelving unit. It would be a safety risk to expect a massage therapist to safely perform massage therapy multiple times a day in any room smaller than 90 square feet.

In its February 15, 2024 comment letter to the State Board of Cosmetology, IRRC asked if the boards considered, “providing salons with an opportunity to obtain an exemption on a case-by-case basis and whether the boards considered including a delayed implementation in order to provide a timeframe for salons that require renovations to comply. The Board and the State Board of Cosmetology decided that due to the reduction in the space requirements provided for by the final-form regulations, no exemption/variance requests will be considered, and no delayed implementation will be necessary. The only licensees that may have a need to request and exemption, variance or delayed implementation would be licensees seeking to allow the practice of massage therapy in rooms smaller than 90 square feet. As noted, it would pose a safety risk to

expect a massage therapist to safely perform massage therapy multiple times a day in any room smaller than 90 square feet. No commentor requested that the minimum room size be less than 90 square feet. Accordingly, no further concessions are necessary or appropriate.

Fiscal Impact and Paperwork Requirements

With the amendments made to the final-form rulemaking, there will be no unnecessary negative fiscal impact on licensees or the Board. Section 9.3 of the Cosmetology Law permits the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon as of November 24, 2014. The Board not track how many massage therapists work in salons. However, it is unlikely that any significant number of massage therapists have been practicing in rooms smaller than 90 square feet because the practice of massage therapy in a room smaller than 90 square feet would be impractical, difficult, and potentially dangerous. However, the small number of massage therapists who may be currently working in rooms smaller than 90 square feet will need to find a way to comply with the final-form rulemaking. For the reasons explained in this preamble, it is in the public interest to require that massage therapy be performed in a room large enough to safely accommodate all that is required.

While section 9.3(b) of the Cosmetology Law indicates that massage therapists practicing in salons are subject to inspection by the Board and the State Board of Cosmetology, the Board does not currently conduct inspections, while the State Board of Cosmetology, which licenses salons, does so. Accordingly, the State Board of Cosmetology's fees are structured to allow for inspections, and the Board's fees are not. The Board and the State Board of Cosmetology have decided that the current inspection procedure is adequate. Therefore, neither board will need to raise its fees to conduct inspections of the rooms sued by massage therapist practicing in cosmetology or esthetician salons.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 27, 2023, the Board submitted a copy of the notice of proposed rulemaking, published at 53 Pa.B. 7908 (December 16, 2023) and a copy of a Regulatory Analysis Form to IRRC and to the chairpersons of the SCP/PLC and the chairpersons of the HPLC. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Massage Board shall submit to IRRC, the HPLC and the SCP/PLC copies of comments received as well as other documents when requested. In preparing the final-form regulation, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on November 4, 2024, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulation Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on _____, 2024. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2024, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Paul Keller, Board Administrator, State Board of Massage Therapy, P.O. Box 2649, Harrisburg, PA 17105-2649, RA-MASSAGETHERAPY@PA.GOV.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).
- (2) A public comment period was provided as required by law, and all comments received were considered in drafting this final-form rulemaking.
- (3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 53 Pa.B. 7908.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the Cosmetology Law (63 P.S. §§ 507 – 527) and the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50).

Order

The Board, therefore, orders that:

- (a) The regulations of the Board at 49 Pa. Code Chapter 20 are amended by adding §§ 20.61 and 20.62 (relating to definitions; and practice of massage therapy in cosmetology or esthetician salons).
- (b) The Board shall submit this final-form rulemaking to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.
- (d) The Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.
- (e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Nancy M. Porambo, L.M.T.
Chairperson
State Board of Massage Therapy

16A-4518 Massage Therapy in Cosmetology or Esthetician Salons &

16A-726: Massage Therapy in Cosmetology or Esthetician Salons

<i>Name</i>	<i>Email</i>	<i>Address</i>
Brenda Maruhnich	bj6698@aol.com	N/A
Robert Jantsch, PA-LMT	massagebob1@yahoo.com	N/A

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 20. STATE BOARD OF MASSAGE THERAPY

PRACTICE OF MASSAGE THERAPY IN COSMETOLOGY OR ESTHETICIAN

SALONS

§ 20.61. Definitions.

The following words and terms, when used in this section and § 20.62 (relating to practice of massage therapy in cosmetology or esthetician salons), have the following meanings, unless the context clearly indicates otherwise:

Cosmetology Law—The act of May 3, 1933 (P.L. 242, No. 86) (63 P.S. §§ 507—527), referred to as the Cosmetology Law.

Salon—A cosmetology salon or esthetician salon licensed by the State Board of Cosmetology in accordance with the Cosmetology Law.

§ 20.62. Practice of massage therapy in cosmetology or esthetician salons.

(a) A massage therapist licensed under the act is permitted to practice massage therapy within the approved premises of a salon if all of the following conditions are met:

(1) The massage therapist is the owner of or employed by the salon and is not an independent contractor.

(2) The salon owner provides an appropriate level of privacy for clients in accordance with all of the following:

(i) *Massage therapy services within the scope of practice of the Cosmetology Law.*

When a massage therapist is practicing in a separate massage therapy room of the salon, or in the areas of the salon used for cosmetology or esthetics, the massage therapist is practicing in the licensed square footage of the salon. Physical barriers separating the areas used for massage therapy services from the areas used for cosmetology or esthetics are not required when a massage therapist provides massage therapy services that are within the scope of practice of cosmetology as defined in § 7.1 (relating to definitions) as follows:

(A) Massage therapy services of the scalp, face, arms or hands, or the upper part of the body.

(B) Massage therapy services of the feet or the lower legs of an individual up to the individual's knee.

(ii) Massage therapy services beyond the scope of practice of the Cosmetology Law.

When a massage therapist is practicing in a separate massage therapy room of the salon, the massage therapist is practicing in the licensed square footage of the salon. A salon owner shall provide separate massage therapy rooms with permanent walls and doors to ensure privacy for clients receiving massage therapy services from a massage therapist when the massage therapy services are beyond the scope of practice of cosmetology or esthetics as provided in § 7.1. The following apply:

(A) The size of the separate massage therapy room must be a minimum of ~~120~~ 90 square feet.

(B) The massage therapist may store linens or other supplies in the separate room provided or in the salon in a space designated by the salon owner.

(C) Esthetician services may be provided to a client in the same room where the

client receives massage therapy, provided these services are not performed concurrently.

(b) A massage therapist providing massage therapy services within the approved premises of a salon shall practice in accordance with this chapter, the act and the Cosmetology Law.

(c) A massage therapist providing massage therapy services within the approved premises of a salon is subject to inspection by the State Board of Cosmetology and the board.

(d) A massage therapist providing massage therapy services within the approved premises of a salon who violates this section, the act or the Cosmetology Law is subject to discipline by the board.

##



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717)783-7155

November 4, 2024

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Rulemaking
State Board of Massage Therapy
16A-726: Massage Therapy in Cosmetology or Esthetician Salons

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Massage Therapy pertaining to Massage Therapy in Cosmetology or Esthetician Salons.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy M. Porambo".

Nancy Porambo, LMT, Chairperson
State Board of Massage Therapy

NP/TMD/mas
Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs
Andrew LaFratte, Deputy Policy Director, Department of State
Jason C. Giurintano, Deputy Chief Counsel, Department of State
Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State
Thomas Davis, Regulatory Counsel, Department of State
Cathy A. Tulley, Board Counsel, State Board of Massage Therapy
State Board of Massage Therapy

RECEIVED

From: [Monoski, Jesse](#)
To: [Sheehe, Melanie](#); [Dimm, Ian](#); [joseph.kelly](#); [Vazquez, Enid](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Date: Monday, November 4, 2024 12:29:34 PM
Attachments: [image001.png](#)
[image002.png](#)

Independent Regulatory
Review Commission

November 4, 2024

Hi Melanie –

This notice has been received and reviewed.

Thank you,

Jesse Monoski

Executive Director, Consumer Protection & Professional
Licensure

Senator Lisa M. Boscola, Minority Chair

Rm 458 Main Capitol Building

Harrisburg, PA, 17120

O: 717-787-4236

From: Sheehe, Melanie <msheehe@pa.gov>

Sent: Monday, November 4, 2024 12:25 PM

To: Monoski, Jesse <Jesse.Monoski@pasenate.com>; Dimm, Ian <Ian.Dimm@pasenate.com>; Kelly, Joseph <joseph.kelly@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>

Subject: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327

Importance: High

EXTERNAL EMAIL

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

Please be advised that the State Board of Cosmetology, State Board of Massage Therapy, and State Board of Osteopathic Medicine are delivering the below FINAL rulemakings. The State Board of Psychology is delivering the below PROPOSED rulemaking.

–
Thank you for your attention to this matter.

- **16A-4518 – State Board of Cosmetology – Practice of Massage Therapy in Cosmetology or Esthetician Salons**

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136) (Act

136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Cosmetology’s (Board’s) joint regulations with the State Board of Massage Therapy is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

- **16A-726 – State Board of Massage Therapy – Practice of Massage Therapy in Cosmetology or Esthetician Salons**

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Massage Therapy’s joint regulations with the State Board of Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

- **16A-5336 – State Board of Osteopathic Medicine – Licensure Requirements**

This final rulemaking includes amendments to licensure requirements as well as amendments related specifically to licensure by endorsement under 63 Pa.C.S. § 3111.

With regard to licensure requirements, the amendments for osteopathic physicians and surgeons are necessary to reflect the merger of the post-graduate training bodies for osteopathic (DO) medical school graduates and allopathic (MD) medical school graduates into a single accreditation system. In addition, the amendments remove the practical (clinical skills) examination licensure requirement because the practical exam component has been discontinued by the national examination provider.

This final rulemaking is also needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This final rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

RECEIVED

Independent Regulatory
Review Commission

November 4, 2024

- **16A-6327 – State Board of Psychology – Accreditation**

The State Board of Psychology (Board) proposes to recognize the Psychological Clinical Science Accreditation System (PCSAS), which would provide an alternate accreditation to the American Psychological Association (APA) and the Canadian Psychological Association (CPA). Including PCSAS parity within the Commonwealth would afford clinical psychological programs a pathway to licensure.

The Board also proposes to update the regulations to reflect a name change from the Commission on Recognition of Postsecondary Accreditation (CORPA) to the Council on Higher Education Accreditation (CHEA). CORPA was established in January 1994 to continue the recognition of accrediting agencies previously carried out by the Council on Postsecondary Accreditation (COPA) until such time as a new national organization for accreditation could be established. CORPA was dissolved in April 1997 after CHEA was created. CHEA is currently the entity that carries out the recognition function in the private, nongovernmental sector.

RECEIVED

Sincerely,

Independent Regulatory
Review Commission

November 4, 2024

Melanie A. Sheehe | Legal Assistant II
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
2400 Thea Drive
P.O. Box 69523 | Harrisburg, PA 17106-9523
Office Phone 717.710.2749 | Fax: 717.787.0251
msheehe@pa.gov | www.dos.pa.gov

Preferred Pronouns: She, Her, Hers

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

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From: [Brett, Joseph D.](#)
To: [Sheehe, Melanie](#); [Orchard, Kari L.](#); [Barton, Jamie](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Date: Monday, November 4, 2024 3:50:17 PM
Attachments: [image001.png](#)
[image003.png](#)

November 4, 2024

Received. Thank you.

Joe Brett

Research Analyst | House Professional Licensure Committee (D)
Chairman Frank Burns, 72nd Legislative District

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Monday, November 4, 2024 12:24 PM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Importance: High

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

Please be advised that the State Board of Cosmetology, State Board of Massage Therapy, and State Board of Osteopathic Medicine are delivering the below FINAL rulemakings. The State Board of Psychology is delivering the below PROPOSED rulemaking.

Thank you for your attention to this matter.

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- **16A-726 – State Board of Massage Therapy – Practice of Massage Therapy in Cosmetology or Esthetician Salons**

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S.

§ 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Massage Therapy's joint regulations with the State Board of Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

• **16A-5336 – State Board of Osteopathic Medicine – Licensure Requirements**

This final rulemaking includes amendments to licensure requirements as well as amendments related specifically to licensure by endorsement under 63 Pa.C.S. § 3111.

With regard to licensure requirements, the amendments for osteopathic physicians and surgeons are necessary to reflect the merger of the post-graduate training bodies for osteopathic (DO) medical school graduates and allopathic (MD) medical school graduates into a single accreditation system. In addition, the amendments remove the practical (clinical skills) examination licensure requirement because the practical exam component has been discontinued by the national examination provider.

This final rulemaking is also needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This final rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

• **16A-6327 – State Board of Psychology – Accreditation**

The State Board of Psychology (Board) proposes to recognize the Psychological Clinical Science Accreditation System (PCSAS), which would provide an alternate accreditation to the American Psychological Association (APA) and the Canadian Psychological Association (CPA). Including PCSAS parity within the Commonwealth would afford clinical psychological programs a pathway to licensure.

The Board also proposes to update the regulations to reflect a name change from the Commission on Recognition of Postsecondary Accreditation (CORPA) to the Council on Higher Education Accreditation (CHEA). CORPA was established in January 1994 to continue the recognition of accrediting agencies previously carried out by the Council on Postsecondary Accreditation (COPA) until such time as a new national organization for accreditation could be established. CORPA was dissolved in April 1997 after CHEA was created. CHEA is currently the entity that carries out the recognition function in the private, nongovernmental sector.

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Sincerely,

Melanie A. Sheehe | Legal Assistant II
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
2400 Thea Drive
P.O. Box 69523 | Harrisburg, PA 17106-9523
Office Phone 717.710.2749 | Fax: 717.787.0251
msheehe@pa.gov | www.dos.pa.gov

Preferred Pronouns: She, Her, Hers

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From: [Nicole Weaver](#)
To: [Sheehe, Melanie](#); [Nicole Sidle](#)
Subject: RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Date: Monday, November 4, 2024 1:03:15 PM
Attachments: [image001.png](#)
[image003.png](#)

Independent Regulatory
Review Commission
November 4, 2024

Received. Thank you.

Nicole Weaver
AA to Professional Licensure Committee
Chairman Carl Walker Metzgar
69th Legislative District
216 Ryan Building
717-783-8756

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Monday, November 4, 2024 12:23 PM
To: Nicole Sidle <Nsidle@pahousegop.com>; Nicole Weaver <Nweaver@pahousegop.com>
Subject: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Importance: High

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

Please be advised that the State Board of Cosmetology, State Board of Massage Therapy, and State Board of Osteopathic Medicine are delivering the below FINAL rulemakings. The State Board of Psychology is delivering the below PROPOSED rulemaking.

Thank you for your attention to this matter.

- **16A-4518 – State Board of Cosmetology – Practice of Massage Therapy in Cosmetology or Esthetician Salons**

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136) (Act 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Cosmetology's (Board's) joint regulations with the State Board of Massage Therapy is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

- **16A-726 – State Board of Massage Therapy – Practice of Massage Therapy in Cosmetology or Esthetician Salons**

This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.

Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the State Board of Massage Therapy’s joint regulations with the State Board of Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

• **16A-5336 – State Board of Osteopathic Medicine – Licensure Requirements**

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Sincerely,

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Office of Chief Counsel | Department of State
Governor's Office of General Counsel
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From: [Smeltz, Jennifer](#)
To: [Sheehe, Melanie](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Date: Monday, November 4, 2024 3:53:17 PM
Attachments: [image001.png](#)
[image002.png](#)

November 4, 2024

Received.

*Jennifer Smeltz, Executive Director
Consumer Protection and Professional Licensure Committee
Office of Senator Pat Stefano
Phone: (717) 787-7175*

From: Sheehe, Melanie <msheehe@pa.gov>
Sent: Monday, November 4, 2024 12:29 PM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY NOTICE: REGULATIONS: 16A-4518, 16A-726, 16A-5336, 16A-6327
Importance: High

ⓘ CAUTION : External Email ⓘ

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