

ILLINOIS REGISTER

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The Department of Financial and Professional Regulation is posting these proposed amendments in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

These proposed rules were published in the April 8, 2011 Illinois Register. The 45 day comment period will end May 23, 2011.

Please submit written comments to Craig Cellini as stated in the attached notice.

THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.

- 1) Heading of the Part: Massage Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1284
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1284.10	Repealed
1284.30	Amendment
1284.40	Amendment
1284.45	New Section
1284.50	Amendment
1284.80	Amendment
1284.90	Amendment
- 4) Statutory Authority: Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of "The Civil Administrative Code of Illinois"[20 ILCS 2105/2105-15(7)].
- 5) A complete description of the subjects and issues involved: A new Section 1284.45 is added requiring every holder of a massage therapist license to display it in the licensee's principal place of practice and a copy of the license at all other places of practice. An additional competency examination is being added under both Sections 1284.30 (Application for Licensure) and 1284.40 (Endorsement). Various technical and clean-up

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changes are also included, including repealing the obsolete grandfather provisions (Section 1284.10).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

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- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: Those providing massage therapy services.
 - B) Reporting, bookkeeping, or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Massage therapy training is necessary for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1284

MESSAGE LICENSING ACT

Section

1284.10	Requirements for Licensure Under Section 20 of the Act (Grandfather) <u>(Repealed)</u>
1284.20	Approved Massage Therapy School
1284.30	Application for Licensure
1284.40	Endorsement
<u>1284.45</u>	<u>Display of License</u>
1284.50	Fees
1284.60	Renewals
1284.70	Inactive Status
1284.80	Restoration
1284.90	Continuing Education
1284.110	Granting Variances

AUTHORITY: Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 28 Ill. Reg. 13366, effective September 21, 2004; amended at 30 Ill. Reg. 12114, effective June 29, 2006; amended at 35 Ill. Reg. _____, effective _____.

**Section 1284.10 Requirements for Licensure Under Section 20 of the Act (Grandfather)
(Repealed)**

- a) ~~Until October 31, 2005, the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) may issue a license to an individual who, in addition to meeting the requirements set forth in Section 15 of the Massage Licensing Act (Act), produces proof that he or she met at least one of the following requirements prior to the effective date of the Act (June 1, 2003):~~
- 1) ~~Has been an active member of a national professional massage therapy organization for a period of at least one year. The organization shall offer professional liability insurance and a code of ethics and must have been~~

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~~established prior to the year 2000. For purposes of this Section, active member does not include students;~~

- ~~2) Has passed the National Certification Exam of Therapeutic Massage and Bodywork and has kept his or her certification current;~~
 - ~~3) Has practiced massage therapy an average of at least 10 hours per week for at least one year prior to June 1, 2003 and has completed 100 hours of formal training in massage therapy; or~~
 - ~~4) Has practiced massage therapy an average of at least 10 hours per week for at least 10 years prior to June 1, 2003.~~
- b) ~~An individual who has practiced massage therapy for at least 10 hours per week for a minimum of one year prior to June 1, 2003, but has less than 100 hours of formal training, or an individual who has practiced for less than one year, but has 100 hours of formal training, may be issued a license under this Section, but must complete at least 100 additional hours of formal training consisting of at least 25 hours in anatomy and physiology by January 1, 2005.~~
- e) ~~For purposes of this Section, "formal training" is described as a massage therapy curriculum approved by the Illinois State Board of Education or the Illinois Board of Higher Education or course work approved by the Division.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 1284.30 Application for Licensure

- a) Any applicant for a massage therapy license ~~who does not meet the requirements of Section 1284.10 (grandfather)~~ shall meet all of the following requirements:
- 1) The applicant is at least 18 years of age and of good moral character;
 - 2) The applicant has Certification of one of the following:~~A) Has successfully completed an approved massage therapy program in accordance with Section 1284.20~~the curriculum or curriculums of one or more massage therapy schools that require a minimum of 500 hours and passed the National Certification Board for Therapeutic Massage & Bodywork's (NCBTMB) examination or the Massage & Bodywork Licensing Examination (MBLEx) administered by the Federation of State Massage

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~~Therapy Boards (FSMTB), another massage therapist certifying examination approved by the Division; or~~

~~B) Has moved to Illinois from a jurisdiction with no licensure requirement and has provided documentation that he or she has successfully passed the National Certification Board of Therapeutic Massage and Bodywork's (NCBTMB) examination or another massage therapist certifying examination approved by the Division and maintains current certification;~~

3) Either:

A) Verification of electronic fingerprint processing from the Illinois Department of State Police or one of the Illinois State Police approved vendors. Applicants shall contact one of the approved vendors for fingerprint processing; or

B) Out-of-state residents unable to utilize the Illinois State Police electronic fingerprint process may submit to one of the Illinois State Police approved vendors one fingerprint card issued by the Illinois State Police, accompanied by the fee specified by the vendor; and

4) Pay the required fee specified in Section 1284.50.

b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Massage Licensing Board (Board) to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1284.40 Endorsement

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~~a)~~An applicant who is currently licensed under the laws of another jurisdiction and who wishes to be licensed as a massage therapist by endorsement shall file an application with the Division, on forms provided by the Division, that shall include:

- ~~a)1)~~ Certification, on forms provided by the Division, of successful completion of an approved massage therapy program in accordance with Section 1284.20. Should an applicant not meet the required number of classroom/hands-on hours, the Division may require completion of additional coursework prior to licensure;
- ~~b)2)~~ Certification from the jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains records of any disciplinary actions taken or pending, and the applicant's license number;
- ~~c)3)~~ A report of the applicant's examination record forwarded directly from NCBTMB or FSMTB ~~the test reporting service~~;
- ~~d)4)~~ ~~Complete work history since graduation from the massage therapy program;~~~~5)~~Either:
 - ~~1)A)~~ Verification of electronic fingerprint processing from the Illinois Department of State Police or one of the Illinois State Police approved vendors. Applicants shall contact one of the approved vendors for fingerprint processing; or
 - ~~2)B)~~ Out-of-state residents unable to utilize the Illinois State Police electronic fingerprint process may submit to one of the Illinois State Police approved vendors one fingerprint card issued by the Illinois State Police, accompanied by the fee specified by the vendor; and
- ~~e)6)~~ The required fee specified in Section 1284.50.
- ~~b)~~ ~~The Division shall examine each endorsement application to determine whether the requirements in the jurisdiction on the date of licensure met the requirements then in force in this State and whether the applicant has otherwise complied with the Act.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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Section 1284.45 Display of License

Every holder of a license as a massage therapist shall display the license in a conspicuous place in the licensee's place of practice, in the place of practice in which the licensee is employed, or, if the licensee is engaged in massage therapy at more than one place of practice, in the licensee's principal place of practice or the principal place of practice of the licensee's employer. If the licensee practices in more than one location, a copy of the license shall be displayed in a conspicuous place at all other places of practice.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1284.50 Fees

The following fees shall be paid to the Division and are not refundable:

- a) Application Fees
The fee for application for a license as a massage therapist is \$175.
- b) Renewal Fees
The fee for the renewal of a license shall be calculated at the rate of \$87.50 per year.
- c) Sponsor Fees
 - 1) The fee for licensure as a continuing education sponsor shall be \$500.
 - 2) The fee for renewal as a continuing education sponsor shall be \$250 every two years.
- d) General Fees
 - 1) The fee for the restoration of a license other than from inactive status is ~~\$50~~\$20 plus payment of all lapsed renewal fees, not to exceed \$470.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.

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- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as massage therapists in this State shall be the actual cost of producing the roster.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1284.80 Restoration

- a) ~~A person seeking restoration of a license after it that has expired or has been placed on inactive status for less than 5 years, or less shall file an application with the Division, with the fee specified in Section 1284.50 ~~have the license restored upon payment of all lapsed renewal fees and, after December 31, 2008, providing proof of 24 hours of meeting the continuing education as defined in requirements of Section 1284.90 in of this Part during the 2 years immediately preceding the prior to restoration application.~~~~
- b) ~~A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and, after December 31, 2008, providing proof of meeting the continuing education requirements of Section 1284.90 of this Part during the 2 years prior to restoration.~~ c) A person seeking restoration of a license after it has expired or has been placed on inactive status for more than 5 years or more shall file an application with, on forms supplied by the Division, with the required fee specified in Section 1284.50 and proof of 24 hours of meeting continuing education as defined in requirements of Section 1284.90 in of this Part during the 2 years immediately preceding the prior to restoration application. The person shall also submit one of the following:
 - 1) Certification of current licensure from ~~another state or territory, completed by the appropriate state board or licensing authority in another jurisdiction in which the registrant was authorized to practice,~~ and proof of current active practice. Proof of current active practice shall include one

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verification of employment completed by the applicant's supervisor or, if self-employed, by a peer or colleague who is familiar with the applicant's work; or

- 2) An affidavit attesting to military service as provided in Section 70 of the Act. Any person seeking restoration of a license~~If application is made within 2 years after of discharge, from military service pursuant to, and if all other provisions of Section 70 of the Act are satisfied, the applicant shall pay the current renewal fee and but will not be required to submit proof of meeting the continuing education requirements; or pay a restoration fee or any lapsed renewal fees.~~
- 3) Proof of successful completion of an exam approved by the Division within 2 years prior to the restoration application.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1284.90 Continuing Education

- a) Continuing Education Hours Requirements
 - 1) Beginning with the December 31, 2008 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 24 hours of continuing education, including at least 2 hours ~~of~~ ethics.
 - 2) A prerenewal period is the 24 months preceding December 31 of each even-numbered year.
 - 3) One CE hour shall equal 50 minutes.
 - 4) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 - 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

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- 6) Massage therapists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
 - 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- b) Approved Continuing Education (CE)
- 1) CE hours shall be earned by verified attendance at (e.g., certificate of attendance or certificate of completion) or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor;
 - 2) Up to 12 hours of CE credit per renewal may be earned as follows:
 - A) For completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c). Each self-study course shall include an examination.
 - B) Credit may be earned for papers prepared and delivered before recognized massage therapy organizations; papers published in nationally recognized massage therapy journals; or a chapter published in a book on massage therapy, each appropriately verified.
 - C) First time presentation of an academic course or workshop, seminar, in-service, electronic or Web-based course. Speeches made at luncheons or banquets or any other presentation not within the guidelines of this Section are not eligible for CE credit.
- c) Approved CE Sponsors and Programs
- 1) Sponsor shall mean:
 - A) Entities approved by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB);

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- B) The American Massage Therapy Association (AMTA) and its chapters;
 - C) Any approved massage therapy program or accredited school, college, university or State agency; and
 - ~~D)~~E) Any other person, firm, or association that has been approved and licensed by the Division pursuant to subsection (c)(2) to coordinate and present continuing education courses and programs in conjunction with this Section.
- 2) An entity seeking licensure as a CE sponsor shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1284.50. The applicant shall certify to the following:
- A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;
 - B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);
 - C) That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and knowledge of the licensee in the practice of massage, which shall include, but not be limited to, ethical reasoning, critical reasoning, interpersonal abilities and performance skills;

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- B) Be developed and presented by persons with 2 years of education and/or experience in the subject matter of the program;
 - C) Specify the course objectives, course content and teaching methods to be used; and
 - D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
 - 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs.
 - 6) All programs given by approved sponsors shall be open to all licensed massage therapists and not be limited to members of a single organization or group.
 - 7) To maintain approval as a licensed sponsor, each sponsor shall submit to the Division by each even-numbered year a renewal application, the renewal fee specified in Section 1284.50 of this Part, and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.
 - 8) It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
 - A) The name, address and license number of the sponsor;
 - B) The name and license number of the participant;
 - C) A brief statement of the subject matter;

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- D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor or person responsible for the CE program.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
 - 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
 - 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at, or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.
 - 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements.
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time, the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

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- e) Continuing Education Earned in Other Jurisdictions
 - 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with the current CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1284.50.
- g) Waiver of CE Requirements
 - 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee set forth in Section 1284.50, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown warranting granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.
 - 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

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- A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 35 Ill. Reg. _____, effective _____)