

Received in the Senate: 1/15/24; Introduced: 1/16/24

Referred: Labor & Commerce

Received in the House: 1/15/24; Introduced: 1/16/24

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EXECUTIVE ORDER NO. 127

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS. As governor, I find that it is in the best interests of efficient
6 administration to transfer the functions relating to the licensure, professional standards, and
7 administration of massage therapy from the Board of Massage Therapists to the Department
8 of Commerce, Community, and Economic Development. Additionally, with the transfer of
9 these functions, I find there is no longer a need for the Board of Massage Therapists and its
10 elimination is in the best interests of efficient administration.

11 * **Sec. 2.** AS 08.01.010(26) is amended to read:

12 (26) **regulation of massage therapists under AS 08.61** [BOARD OF
13 MASSAGE THERAPISTS (AS 08.61.010)];

14 * **Sec. 3.** AS 08.61.020 is amended to read:

15 **Sec. 08.61.020. Duties and powers of the department [BOARD].** In addition
16 to the duties specified in AS 08.01, the **department** [BOARD] shall

17 (1) provide for the examination of applicants by the **department**
18 [BOARD] or through a nationally recognized competency examination approved by
19 the **department** [BOARD] and issue licenses to applicants the **department** [BOARD]
20 finds qualified;

21 (2) adopt regulations governing

22 (A) licensing of massage therapists;

23 (B) the practice of massage therapy; and

24 (C) massage therapy establishments;

25 (3) establish standards of professional competence and ethical conduct
26 for massage therapists;

1 (4) establish standards for continuing education for massage therapists;
 2 standards adopted by the department [BOARD] under this paragraph must allow for
 3 approval of Internet-based continuing education courses;

4 (5) make available to the public a list of massage therapists licensed
 5 under this chapter;

6 (6) determine which states have educational and licensing
 7 requirements equivalent to the requirements of this state;

8 (7) enforce the provisions of this chapter and adopt and enforce
 9 regulations necessary to implement this chapter; and

10 (8) approve one or more nationally recognized competency
 11 examinations and publish and periodically update the list of approved examinations.

12 * **Sec. 4.** AS 08.61.030 is amended to read:

13 **Sec. 08.61.030. Qualifications for license.** The department [BOARD] shall
 14 issue a license to practice massage therapy to a person who

15 (1) applies on a form provided by the department;

16 (2) pays the fees established under AS 08.61.090;

17 (3) furnishes evidence satisfactory to the department [BOARD] that
 18 the person has completed a

19 (A) course of study of at least 625 hours of in-class supervised
 20 instruction and clinical work from an approved massage school; or

21 (B) department-approved [BOARD-APPROVED]
 22 apprenticeship program;

23 (4) is 18 years of age or older;

24 (5) has been fingerprinted and has provided the fees required by the
 25 Department of Public Safety under AS 12.62.160 for criminal justice information and
 26 a national criminal history record check; the fingerprints and fees shall be forwarded
 27 to the Department of Public Safety to obtain a report of criminal justice information
 28 under AS 12.62 and a national criminal history record check under AS 12.62.400;

29 (6) has a current cardiopulmonary resuscitation certification;

30 (7) has received at least two hours of safety education covering
 31 bloodborne pathogens and universal precautions in the two years preceding the

1 application for the license; in this paragraph, "bloodborne pathogens" has the meaning
2 given in AS 18.15.450;

3 (8) has successfully completed a nationally recognized competency
4 examination approved by the department [BOARD]; and

5 (9) has not been convicted of, or pled guilty or no contest to, a crime
6 involving moral turpitude, or who has been convicted of, or pled guilty or no contest
7 to, a crime involving moral turpitude if the department [BOARD] finds that the
8 conviction does not affect the person's ability to practice competently and safely.

9 * **Sec. 5.** AS 08.61.040 is amended to read:

10 **Sec. 08.61.040. Licensure by credentials.** The department [BOARD] shall
11 issue a license to practice massage therapy to a person who

12 (1) is 18 years of age or older;

13 (2) applies on a form provided by the department;

14 (3) pays the fees established under AS 08.61.090;

15 (4) has submitted the person's fingerprints and the fees required by the
16 Department of Public Safety under AS 12.62.160 for criminal justice information and
17 a national criminal history record check; the fingerprints and fees shall be forwarded
18 to the Department of Public Safety to obtain a report of criminal justice information
19 under AS 12.62 and a national criminal history record check under AS 12.62.400;

20 (5) is not the subject of an unresolved complaint or disciplinary action
21 before a regulatory authority in this state or another jurisdiction;

22 (6) has not had a certificate or license to practice massage therapy
23 revoked, suspended, or voluntarily surrendered in this state or another jurisdiction;

24 (7) has not been convicted of, or pled guilty or no contest to, a crime
25 involving moral turpitude, or has been convicted of, or pled guilty or no contest to, a
26 crime involving moral turpitude if the department [BOARD] finds that the conviction
27 does not affect the person's ability to practice competently and safely;

28 (8) has a current cardiopulmonary resuscitation certification; and

29 (9) is currently

30 (A) licensed to practice massage therapy in another state or
31 country that has licensing requirements that are substantially equal to or greater

1 than the requirements of this state; or

2 (B) certified by a certification entity approved by the
3 department [BOARD].

4 * **Sec. 6.** AS 08.61.050 is amended to read:

5 **Sec. 08.61.050. Standards for license renewal.** The department [BOARD]
6 shall renew a license issued under this chapter to a licensee who

7 (1) pays the required fee;

8 (2) meets the continuing education requirements established by the
9 department [BOARD];

10 (3) has not been convicted of, or pled guilty or no contest to, a crime
11 involving moral turpitude, or has been convicted of, or pled guilty to or no contest to,
12 a crime involving moral turpitude if the department [BOARD] finds that the
13 conviction does not affect the person's ability to practice competently and safely;

14 (4) has a current cardiopulmonary resuscitation certification; and

15 (5) has been fingerprinted and has provided the fees required by the
16 Department of Public Safety under AS 12.62.160 for criminal justice information and
17 a national criminal history record check at least once every six years; the fingerprints
18 and fees shall be forwarded to the Department of Public Safety to obtain a report of
19 criminal justice information under AS 12.62 and a national criminal history record
20 check under AS 12.62.400.

21 * **Sec. 7.** AS 08.61.060 is amended to read:

22 **Sec. 08.61.060. Grounds for imposition of disciplinary sanctions.** After a
23 hearing, the department [BOARD] may impose a disciplinary sanction authorized
24 under AS 08.01.075 on a person licensed under this chapter if the department
25 [BOARD] finds that the person

26 (1) secured a license through deceit, fraud, or intentional
27 misrepresentation;

28 (2) engaged in deceit, fraud, or intentional misrepresentation in the
29 course of providing massage therapy services or engaging in massage therapy;

30 (3) advertised massage therapy services in a false or misleading
31 manner;

1 (4) has been convicted of a felony or another crime that affects the
2 licensee's ability to continue to practice competently and safely;

3 (5) intentionally or negligently engaged in, or permitted a person under
4 the licensed massage therapist's supervision to engage in, client care that did not
5 conform to minimum professional standards, whether or not actual injury to the client
6 occurred;

7 (6) failed to comply with a provision of this chapter, a regulation
8 adopted under this chapter, or an order of the department [BOARD];

9 (7) continued to practice after becoming unfit because of

10 (A) professional incompetence; or

11 (B) addiction or severe dependency on alcohol or another drug
12 that impairs the ability to practice safely; or

13 (8) engaged in unethical conduct or sexual misconduct in connection
14 with the delivery of massage therapy services to a client.

15 * **Sec. 8.** AS 08.61.080 is amended to read:

16 **Sec. 08.61.080. Exceptions to application of chapter.** This chapter does not
17 apply to a

18 (1) person licensed in the state under a statute outside this chapter who
19 performs massage therapy within the scope of practice for which the person's license
20 was issued;

21 (2) person who, while acting in an official capacity as an employee of
22 the United States government, performs massage therapy;

23 (3) person who is licensed, registered, or certified in another state,
24 territory, the District of Columbia, or a foreign country while the person is temporarily

25 (A) practicing massage therapy in this state in connection with
26 teaching a course related to massage therapy; or

27 (B) consulting with a person licensed under this chapter;

28 (4) student enrolled in an approved massage school or course of study
29 who is completing a clinical requirement for graduation under the general supervision
30 of a person licensed under this chapter if the student is clearly identified as a student
31 while performing massage therapy services on members of the public and is not

1 compensated for the massage therapy services;

2 (5) person only performing massage therapy on members of the
3 person's family;

4 (6) person only performing techniques that do not involve contact with
5 the body of another person;

6 (7) person only performing techniques that involve resting the hands
7 on the surface of the body of another person without delivering pressure to or
8 manipulating the person's soft tissues;

9 (8) person only performing services such as herbal body wraps, skin
10 exfoliation treatments, or the topical application of products to the skin for
11 beautification purposes when the services do not involve direct manipulation of the
12 soft tissues of the body;

13 (9) person only performing massage therapy for the athletic
14 department of an institution maintained by public funds of the state or a political
15 subdivision of the state or only practicing massage therapy for the athletic department
16 of a school or college approved by the department [BOARD] using recognized
17 national professional standards;

18 (10) person engaged only in the practice of structural integration for
19 restoring postural balance and functional ease by integrating the body in gravity using
20 a system of fascial manipulation and awareness who has graduated from a program or
21 is a current member of an organization recognized by the International Association of
22 Structural Integrators, including the Rolf Institute of Structural Integration;

23 (11) person using only light touch, words, and directed movement to
24 deepen awareness of existing patterns of movement in the body as well as to suggest
25 new possibilities of movement or to affect the energy systems;

26 (12) person performing only the traditional practices of Native
27 American traditional healers;

28 (13) person practicing only the manipulation of the soft tissues of the
29 hands, feet, or ears and not holding out to be a massage therapist.

30 * **Sec. 9.** AS 44.62.330(a)(45) is amended to read:

31 (45) the Department of Commerce, Community, and Economic

1 **Development relating to the licensing and regulation of massage therapists under**
 2 **AS 08.61** [BOARD OF MASSAGE THERAPISTS];

3 * **Sec. 10.** AS 08.03.010(c)(12); AS 08.61.010, and 08.61.100(2) are repealed.

4 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
 5 read:

6 TRANSITION. (a) The terms of the members of the Board of Massage Therapists
 7 established under AS 08.61.010 terminate on the effective date of this Order.

8 (b) Litigation, hearings, investigations, and other proceedings pending under a law
 9 repealed or amended by this Order, or in connection with a function transferred by this Order,
 10 continue in effect and may be completed notwithstanding a transfer, repeal, or amendment
 11 provided for in this Order.

12 (c) Contracts, rights, liabilities, and obligations created by or under a law repealed or
 13 affected by this Order, and in effect on the effective date of this Order, remain in effect
 14 notwithstanding this Order's taking effect.

15 (d) Certificates, licenses, orders, and regulations in effect on the effective date of this
 16 Order that were issued or adopted under the authority of a law amended or repealed by this
 17 Order, or in connection with a function transferred by this Order, remain in effect for the term
 18 issued and shall be enforced by the agency to which the function is transferred under this
 19 Order until revoked, vacated, or amended by the agency to which the function is transferred.

20 (e) Records, equipment, appropriations, and other property of an agency of the state
 21 whose functions are transferred under this Order shall be transferred to implement the
 22 provisions of this Order.

23 * **Sec. 12.** This Order takes effect July 1, 2024.

DATED: _____

 Mike Dunleavy
 Governor