



COLORADO

**Department of
Regulatory Agencies**

Division of Professions and Occupations

Healthcare Branch
Office of Massage Therapy Licensure

**Frequently Asked Questions HB16-1320:
Concerning the Regulation of Massage Therapy
to Modify Practices that are Linked to Criminal Behavior**

Why has the Massage Therapy Practice Act been changed if prostitution and human trafficking are already crimes prohibited in Colorado?

This bill allows regulators to better complement the efforts of law enforcement in addressing the growing scourge of sex trafficking in our state. By closing regulatory loopholes, criminals cannot hide behind a legitimate license to escape criminal conviction, a problem DORA has witnessed more than 30 times in the past two years in massage therapy cases.

For example, HB 1320 does this by allowing law enforcement to arrest a trafficker for forcing unlicensed practice. Under the old law, law enforcement could only arrest the person providing unlicensed practice, typically a victim of sex trafficking, and not the perpetrator of the trafficking scheme.

I am currently exempted from massage therapy licensure. Will I still be exempted under HB 1320?

Yes. HB 1320 does not remove the exemptions for massage therapy licensure. Rather, the bill replaces exemptions that were vaguely worded (and being exploited by criminals) with more specificity, for example, replacing manipulation of the "hands, feet, or ears," with "reflexology, auricular therapy, and meridian therapies that affect the reflexes of the body."

Importantly, under current law, and following enactment of HB 1320, a practitioner who does not practice massage therapy, or hold him/herself out as practicing massage therapy, does not need to be licensed. The bill allows the Director of the Office of Massage Therapy (Director) to remove exemptions for practices that are used by human traffickers to perpetuate a continued pattern of criminal behavior -- an authority that would only be used in rare circumstances and in consultation with legitimate practitioners.

Will I have to get a local license to continue practicing massage?

No. HB 1320 does not require people who are licensed by the State to also become licensed by a local government such as a city, county or municipality.

Does the bill allow for inspections of massage businesses?

Yes. Existing law allows local law enforcement agencies to inspect the premises of businesses where massage therapy is practiced. The bill adds that local governments (non-law enforcement) may inspect too, but only upon a complaint of illegal activity, and to ensure that the people performing massages within the business are licensed. However, local governments do not have authority to inspect sole proprietorships within a person's residence.

Will I be allowed to serve clients under the age of 18?

Yes. HB 1320 adds a new requirement that an applicant for a massage therapy license must be 18 years of age or older at the time of licensure. The bill DOES NOT require that the client of a massage therapist be 18 years of age. The age requirement for licensure is consistent with requirements for the majority of other healthcare professions. The requirement applies only to those applying for a massage therapy license and not to the clients of massage therapy.

Why does the bill include a provision naming body parts?

The Office of Massage Therapy Licensure and law enforcement have seen an increase in cases for sexual behavior that does not involve the direct touching of a client. The new grounds for discipline address masturbation and exposing oneself to a client, as described in the bill.

The new grounds for discipline are very specifically targeted at unethical behaviors involved in human trafficking and prostitution. Legitimate and professional massage therapists will not be in danger of violating these new regulations so long as they do not expose intimate parts of their (the therapist's) bodies to the view of a client. A client will still be allowed to disrobe to the client's level of comfort. Existing standards for draping continue.

How does the requirement of "good moral character" affect current and future massage therapists? If I have a background, can I still get licensed or continue to practice?

The requirement for good moral character is utilized in professions such as real estate, insurance, teaching, and law. This requirement allows the Director to deny a license to someone who was charged with criminal behavior such as pimping or keeping a place of prostitution, but has pled the charge down or received a deferred sentence.

Massage therapists and applicants with criminal backgrounds will still be allowed to practice. DORA will work with schools of massage therapy to provide more guidance as to what type of criminal backgrounds might be grounds for denial of licensure.

I employ and/or contract several massage therapists in my business. Will I face criminal penalties if they are not licensed?

Possibly. HB 1320 makes it a misdemeanor to knowingly aid and abet unlicensed practice of massage therapy. This change targets human traffickers specifically. Hiring unlicensed individuals to perform massage therapy is against the law and likely will result in discipline.

If you know or suspect unlicensed practice, you are encouraged to file a complaint with the Director so the matter can be investigated. Visit www.askdora.colorado.gov and click on "File a Complaint."

Why allow fining of massage therapists?

HB 1320 gives the Director authority to impose a fine of up to \$5,000 per violation, and will allow the Director to fine those engaged in violations of the Massage Therapy Practice Act that are linked to human trafficking. Fining authority is common in other practice acts for healthcare professionals, including chiropractors, nurses, physicians, naturopathic doctors and physical therapists.

Can I still continue to provide complementary and alternative health care services?

Yes. So long as you do not practice or represent that you are practicing massage or massage therapy, you may continue to provide services as authorized under the Colorado Natural Health Consumer Protection Act without being licensed. The changes in HB-1320 simply conform the definition of massage therapy in that Act with the definition in the Massage Therapy Practice Act.