



## New Requirement to Hold a Massage Establishment License Fact Sheet

House Bill 2644 (80th Texas Legislature, 2007) established new, specific standards for businesses which must hold a Massage Establishment license by restricting the list of businesses which are exempt and do not need to hold a license. This bill also eliminated the previous authority of the Department of State Health Services (DSHS) to exempt businesses by rule. The changes are effective September 1, 2007. The old rules are no longer in effect.

The only exempt businesses are:

- Businesses owned by a government entity
- Solo practitioner (licensed massage therapist) who advertises as such
- Specific licensed professionals who employ or contract with a licensed massage therapist as part of their practice
- Massage offered for not more than 72 hours every six months at a public or charity event with a primary purpose unrelated to massage

*See reverse of this page for the exact text of the law effective September 1, 2007.*

**Apply now if your business was formerly exempt.** DSHS must receive massage establishment license applications from the businesses which were formerly exempted by rule listed below if they intend to continue to offer massage therapy or other massage services:

- Massage schools which offer massage therapy or other massage services beyond the 50 hour internship
- Health spas
- Hotels, food establishments, and other businesses previously approved as exempt
- Beauty and barber shops unless owned by a cosmetologist who employs or contracts with a massage therapist as part of his/her practice
- Non-profit organizations

*See reverse of this page for the old rules on exemptions which are no longer in effect.*

The law defines **massage therapy** as:

"the manipulation of soft tissue by hand or through a mechanical or electrical apparatus for the purpose of body massage and includes effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics. The terms "massage," "therapeutic massage," "massage technology," "myotherapy," "body massage," "body rub," or any derivation of those terms are synonyms for "massage therapy."

The law defines **other massage services** as:

"any services offered or performed for compensation at a massage establishment that involve physical contact with a client, and may include the use of oil, lubricant, salt glow, a heat lamp, a hot and cold pack, or a tub, shower, jacuzzi, sauna, steam, or cabinet bath."

**You must apply by mail. You may download or print an application for a Massage Therapy Establishment license from our website: <http://www.dshs.state.tx.us/massage/>**

**New Law effective September 1, 2007 - These are now the only exemptions.**

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Section 455.155(c), Occupations Code, is amended to read as follows:

- (c) A place of business is not required to hold a license under this chapter if:
- (1) the place of business is owned by the federal government, the state, or a political subdivision of the state;
  - (2) at the place of business, a licensed massage therapist practices as a solo practitioner and:
    - (A) does not use a business name or assumed name; or
    - (B) uses a business name or an assumed name and provides the massage therapist's full legal name or license number in each advertisement and each time the business name or assumed name appears in writing;
  - (3) at the place of business, an acupuncturist, athletic trainer, chiropractor, cosmetologist, midwife, nurse, occupational therapist, perfusionist, physical therapist, physician, physician assistant, podiatrist, respiratory care practitioner, or surgical assistant licensed or certified in this state employs or contracts with a licensed massage therapist to provide massage therapy as part of the person's practice; or
  - (4) at the place of business, a person offers to perform or performs massage therapy:
    - (A) for not more than 72 hours in any six-month period; and
    - (B) as part of a public or charity event, the primary purpose of which is not to provide massage therapy.

**Old Rules Which Are No Longer in Force and Will Be Repealed Soon - Do not rely on these any more.**

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**§141.54 Exemptions**

~~(a) The following establishments are specifically exempt from the provisions of the Texas Occupations Code, Chapter 455 (the Act), regulating massage establishments:~~

- ~~—(1) an establishment that holds a license, permit, certificate, or other credential issued by the state under another law, and that offers or performs massage therapy, or other massage services, under the scope of that credential;~~
- ~~—(2) a licensed massage therapist who practices as a solo practitioner in that therapist's legal name or uses an assumed name if the person's legal name or massage therapy license number is used in any advertisement or presentation of the assumed name;~~
- ~~—(3) a nonprofit organization which is tax exempt under 26 United States Codes Annotated, §501(c) (Internal Revenue Code);~~
- ~~—(4) a hotel, motel, or similar commercial establishment which:
  - ~~— (A) offers a sleeping room for rent for a period of time that is more than 10 hours; and~~
  - ~~— (B) does not allow a tenant or occupant of a sleeping room to sublease the room for a period of time that is less than 10 hours;~~~~
- ~~—(5) a business whose primary business is devoted to the sale of food and food products;~~
- ~~—(6) a health spa in compliance with the Health Spa Act, Texas Occupations Code, Chapter 702;~~
- ~~—(7) the office of a physician, chiropractor, occupational therapist, physical therapist, or member of another similarly licensed or regulated profession as determined by the department if the professional is practicing within the scope of his or her license. This exemption applies to a professional who uses a licensed massage therapist to practice massage therapy or other massage services in the professional's office or where the professional has authority to delegate tasks under the statutory authority for that professional;~~
- ~~—(8) an establishment owned or operated by the federal government, the state, a political subdivision of the state, or a municipality;~~
- ~~—(9) an establishment which is operational for a period of time of no more than 24 hours in a calendar year and in which the provision of massage therapy or other massage services is incidental to the primary athletic, fund raising, or other purpose of the event sponsored by the establishment;~~
- ~~—(10) a massage therapy educational program in compliance with the Act;~~
- ~~—(11) a beauty shop in compliance with the Texas Occupations Code, Chapter 1602; or~~
- ~~—(12) a barber shop in compliance with the Texas Occupations Code, Chapter 1601.~~

~~(b) An establishment may request an exemption from the licensure requirements of this section where it can show that the advertising or provision of massage therapy or other massage services is incidental to the person's primary enterprise.~~

~~(c) Requests for exemptions must be in writing and must state the reasons why the exemption should be granted.~~