

Kevin Meyer
Lieutenant Governor
State Capitol
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: February 24, 2020

RE: Filed Permanent Regulations: Department of Commerce Community and Economic Development

Department of Commerce, Community, and Economic Development regulations re: fees for massage therapy establishments regulated by the Board of Massage Therapists (12 AAC 02.396)

| | |
|------------------------|-----------------|
| Attorney General File: | 2019104243 |
| Regulation Filed: | 2/24/2020 |
| Effective Date: | 3/25/2020 |
| Print: | 233, April 2020 |

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Sher Zinn, Regulations Specialist

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

The attached one page of regulations, dealing with occupational licensing fees for professions regulated by the Board of Massage Therapy, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community and Economic Development adopts under the authority of AS 08.01.010, AS 08.01.065, and AS 08.61.090, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 17 Jan 20
Juneau, Alaska


Sara Chambers, Director
Division of Corporations, Business and
Professional Licensing

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on Febr. 24th, 2020 at 2:24 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Kevin Meyer, Lieutenant Governor

Effective: March 25, 2020.

Register: 233, April 2020.

Chapter 02. General Occupational Licensing Functions.

The introductory language of 12 AAC 02.396 is amended to read:

12 AAC 02.396. Board of Massage Therapists. The following fees are established for massage therapists and massage therapy establishments:

12 AAC 02.396(4) is amended to read:

(4) nonrefundable fingerprint processing fee, \$60; 1.]

12 AAC 02.396 is amended by adding new paragraphs to read:

(5) nonrefundable massage therapy establishment registration fee, \$300;

(6) fee for each investigation of an unregistered massage therapy establishment, 1100 \$2000. (Eff. 8/01/2015, Register 215; am 6/14/2017, Register 222; am 3 / 25 / 2020, Register 233)

Authority: AS 08.01.010 AS 08.01.065 AS 08.61.090

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: February 14, 2020

File No.: 2019104243

Thru: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
Legislation and Regulations Section

Re: Department of Commerce,
Community, and Economic
Development regulations re: fees for
massage therapy establishments
regulated by the Board of Massage
Therapists (12 AAC 02.396)

The Department of Law has reviewed the attached regulations of the Department of Commerce, Community, and Economic Development against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Commerce, Community, and Economic Development after the close of the public comment period.

The regulations establish fees for massage therapy establishments, now subject to regulation by the Board of Massage Therapists as a result of amendments to AS 08.61.020 made under sec. 2., ch. 10, SLA 2018 and effective July 1, 2019. The regulations establish a \$300 registration fee for a massage therapy establishment. If a massage therapy establishment is unregistered, the regulations impose a \$2,000 fee on the establishment for each investigation of the premises.

We note that these fee regulations are related to a set of substantive regulation changes that include new regulations for massage therapy establishments (Department of Law file number 2018201001). We ask that the set of substantive regulations be filed on the same date as this fee regulation project so that the regulations in each project share the same effective date (i.e., 30 days after the date of filing).

The October 27, 2019 public notice and the January 17, 2020 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: Hon. Julie Anderson, Commissioner
Department of Commerce, Community, and Economic Development

Amy Demboski, Assistant Commissioner and Regulations Contact
Department of Commerce, Community, and Economic Development

Sara Chambers, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Sher Zinn, Regulations Specialist
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Senior Assistant Attorney General
Commercial, Fair Business, and Child Support Section



THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community,
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
Main: 907.465.2500
Toll free fax: 907.465.2500

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations, outside of the Alcohol and Marijuana Control Office (AMCO), but for the Division of Corporations, Business and Professional Licensing (CBPL), under the Alaska Administrative Procedure Act, is hereby delegated to:


Sara Chambers
Division Director
Division of Corporations, Business and Professional Licensing
DCCED
P.O. Box 110806
Juneau, AK 99811-0806
907-465-2536
sara.chambers@alaska.gov

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations of the Alcohol and Marijuana Control Office, under the Alaska Administrative Procedure Act, is hereby delegated to:

Amy Demboski
Assistant Commissioner
DCCED
550 West Seventh Avenue, Suite 1535
Anchorage, AK 99501
907-269-8100
amy.demboski@alaska.gov

This Delegation of Authority will remain in effect until modified or revoked by a subsequent delegation. This Delegation supersedes and revokes all delegations preceding it.

Dated the 30th day of October 2019


Julie Anderson
Commissioner
Department of Commerce, Community,
and Economic Development

**Notice of Proposed Changes to Fees for Massage Therapy Establishments Regulated by the
Board of Massage Therapy in the Regulations of the Department of Commerce,
Community, and Economic Development**

BRIEF DESCRIPTION: The Department of Commerce, Community, and Economic Development proposes to add a registration fee for massage therapy establishments, and an investigation fee for unregistered establishments, to implement amendments to AS 08.61 enacted under Chapter 10, SLA 2018 (HB 110).

The Department of Commerce, Community, and Economic Development (Department) proposes to adopt regulation changes in Title 12, Chapter 02 of the Alaska Administrative Code, dealing with new fees, including the following:

12 AAC 02.396. Board of Massage Therapists, is proposed to add a fee for massage therapy establishment registration, and an investigation fee for unregistered establishments.

Under AS 08.01.065, the Department must establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Department will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/195862>, and using the comment link. **The comments must be received not later than 4:30 p.m. on November 29, 2019.** Comments received after this deadline will not be considered by the Department.

You may submit written questions relevant to the proposed action to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at RegulationsAndPublicComment@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Department's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofMassageTherapists.aspx> or on the Alaska Online Public Notice System. The Department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Sher Zinn at (907) 465-1049 or RegulationsAndPublicComment@alaska.gov not later than November 22, 2019, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Sher Zinn at (907) 465-1049 or RegulationsAndPublicComment@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MASFees-1019.pdf>.

After the public comment period ends, the Department will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.01.010; AS 08.01.065; AS 08.61.090.

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.01.010; AS 08.01.065; AS 08.61.090.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 10/28/19

Sher Zinn
Sher Zinn, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** Department of Commerce, Community, and Economic Development – Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Occupational licensing fees.
3. **Citation of regulation:** 12 AAC 02.396.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Compliance with state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: Fee for the owner of a massage therapy establishment, \$300 for initial registration, \$2000 investigation fee for unregistered establishments.
Another state agency: None known.
A municipality: None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):** No costs are expected in FY 2020 or in subsequent years.
9. **The name of the contact person for the regulation:**
Sher Zinn, Regulations Specialist
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Telephone: (907) 465-1049
E-mail: RegulationsAndPublicComment@alaska.gov
10. **The origin of the proposed action:** Division of Corporations, Business and Professional Licensing.

11. Date: 10/28/19

Prepared by: Sher Zinn
Sher Zinn
Regulations Specialist
(907) 465-1049

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION

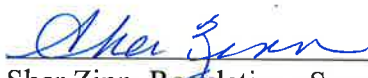
I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 02.396, occupational licensing fees for the Board of Massage Therapy, has been given by being:

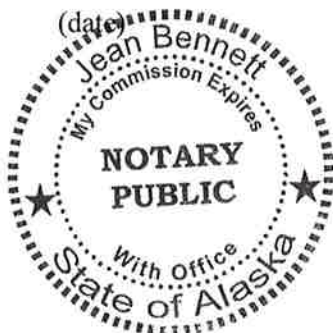
1. published in a newspaper or trade publication;
2. furnished to every person who has filed a request for notice of proposed action with the state agency;
3. furnished to appropriate state officials;
4. furnished to interested persons;
5. furnished to the Department of Law, along with a copy of the proposed regulation;
6. furnished electronically to incumbent State of Alaska legislators;
7. posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);


As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 1/29/2020


Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, AK on 1-29-2020




Notary Public in and for the State of Alaska
My commission expires w/office

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

In compliance with AS 44.62.215, the Department of Commerce, Community, and Economic Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Commerce, Community, and Economic Development regulations on dealing with occupational licensing fees for professions regulated by the Board of Massage Therapy.

Date: 1/29/2020

Sher Zinn
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, AK on
1-29-2020
(date)



Jean Bennett
Notary Public in and for the State of Alaska
My commission expires: w/ office

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 268972 ST OF AK/DEC/OCCU
Attention To: ATTN TO: JUN MAIQUIS
PO BOX 110806, JUNEAU, AK 99811

Order #: W0012153

Cost: \$473.14

RECEIVED
Juneau
OCT 31 2019

CBPL

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the afore-said place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

10/27/2019

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed



Subscribed and sworn to before me
this 28th day of October 2019.

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

7/14/2020

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

Notice of Proposed Changes to Fees for Massage Therapy Establishments Regulated by the Board of Massage Therapy in the Regulations of the Department of Commerce, Community, and Economic Development

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You may submit written questions relevant to the proposed action to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at RegulationsAndPublicComment@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Department's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofMassageTherapists.aspx> or on the Alaska Online Public Notice System. The Department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

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Statutory Authority: AS 08.01.010; AS 08.01.065; AS 08.61.090.

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.01.010; AS 08.01.065; AS 08.61.090.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 10/25/19

By: /s/ Sher Zinn, Regulations Specialist
Division of Corporations, Business and Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

Published: October 27, 2019

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF DEPARTMENT CONSIDERATION OF
BOARD RECOMMENDATIONS

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 08.01.065(c), the Department of Commerce, Community, and Economic Development has considered the recommendations of the Board of Massage Therapy before adopting changes to the fees in 12 AAC 02.396.

Date: 1/29/2020

Sher Zinn
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Tuneau, AK on
1-29-2020

(date)



Jean Bennett
Notary Public in and for the State of Alaska
My commission expires: w/office