

BOARDS AND COMMISSIONS
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:070. Endorsement.

RELATES TO: KRS ~~[309.358,]~~309.359

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.359 authorizes the board to issue a license to a person holding a credential in another state of the United States. KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 through 309.364. This administrative regulation establishes the application process for issuance of a license to a person holding a credential in another state of the United States.

Section 1. ~~[An applicant Meeting Equal or Higher Standards.]~~ An applicant holding a license issued by another state with licensure standards equal to or higher than the requirements of KRS 309.358 shall submit:

(1) A completed Application for Licensure as a Massage Therapist, which is incorporated by reference in 201 KAR 42:035;

(2) A verifiable statement that the individual is in good standing as a massage therapist from the credentialing authority of the jurisdiction in which the applicant holds a license or credential including duration of the license or credential; and

(3) The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1).

Section 2. ~~An Applicant Meeting Lesser Standards.]~~ An applicant who is credentialed as a massage therapist in another state ~~[with less stringent requirements than KRS 309.358]~~ shall submit:

(1) A completed "Application for Licensure Through Endorsement as a Massage Therapist" ~~],~~ which is incorporated by reference in 201 KAR 42:035];

(2) A recent fingerprint-supported background check performed by the Kentucky State Police and the Federal Bureau of Investigation. The required background check shall be applied for within the ninety (90) days preceding the date of submission of the application for licensure to the board.

(3) A two (2) inch by two (2) inch or larger passport quality color head shot photograph of only the applicant, which is attached to the application form. The photograph submitted with the application shall be taken within the previous six (6) months to reflect the current appearance of the applicant.

(4) A certified statement from the credentialing authority of the jurisdiction in which the applicant currently holds a license or credential that the individual has been licensed in that jurisdiction for one (1) year prior to the filing of the application in Kentucky and has been [is] in good standing as a massage therapist [from the credentialing authority of the jurisdiction in which the applicant holds a license or credential] for the [including] duration of the license or credential;

~~(5) [(3)]~~ The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1); and

~~(6) [(4)]~~ Documents evidencing the applicant's combined initial training, professional experience, continuing education, or other credentials constituting equivalency to KRS 309.358. Acceptable documentation may include:

(a) Passage of an entry level examination administered by the National Certification Board of Therapeutic Massage and Bodywork (NCETMB), which includes the NCE, NCETM, and the NCETMB, [s National Certification Exam (NCE)] or an examination that has been approved by the board pursuant to 201 KAR 42:035;

(b) Certified school transcripts received directly from the massage school, which qualified for a Certificate of Good Standing from the Commonwealth of Kentucky for the duration of the applicant's attendance;

(c) Copies of continuing education certificates from studies completed after or not included as part of the initial training;

(d) Certified transcript of health care related academic course work;

(e) Proof of teaching massage therapy relevant curriculum as stated in KRS 309.363;

(f) Other credentials that may constitute equivalence to the standards in KRS 309.358, which may also include research, clinical internships, publications, and massage therapy leadership positions; or

(g) Current proof of hands-on therapeutic massage or bodywork sessions with supporting documentation for the hours or years of massage therapy work for six (6) months of the one (1) year preceding the application for endorsement.

1. The supporting documentation shall include:

a. Appointment books, employer verification, [and] log books, and contact information for the employer; or

b. If self-employed, appointment books, and verification of self-employment.

2. If proof of hands on therapeutic massage or bodywork sessions [this] is the only documentation provided to establish equivalency, a minimum of four (4) years' experience shall be required.

Section 2. Reciprocity for Spouses and Dependents of Active Armed Forces Members. (1) The spouse or a dependent of an active-duty member of the Armed Forces of the United States may apply for licensure by endorsement by submitting:

(1) A completed "Application for Licensure Through Endorsement as a Massage Therapist," June 2021;

(2) A recent fingerprint-supported background check performed by the Kentucky State Police and the Federal Bureau of Investigation. The required background check shall be applied for within the ninety (90) days preceding the date of submission of the application for licensure to the board;

(3) A two (2) inch by two (2) inch or larger passport quality color head shot photograph of only the applicant, which is attached to the application form. The photograph submitted with the application shall be taken within the previous six (6) months to reflect the current appearance of the applicant;

(4) The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1);

(5) Proof that the applicant holds a valid license or certificate for the profession issued by another state, the District of Columbia, or any possession or territory of the United States;

(6) Proof they are married to or a dependent of an active-duty member of the Armed Forces of the United States; and

(7) Proof that the applicant's spouse or family member is assigned to a duty station in this Commonwealth pursuant to the official active-duty orders.

Section 3. Criminal History. (1) An applicant with a criminal history, excluding minor traffic violations, may be required to be interviewed by the board's Application Committee prior to li-

censure to find if the applicant complies with the requirement for good moral character established in KRS 309.358(1)(c), and the interview shall be conducted pursuant to the board's authority under KRS 309.355(2) and KRS 309.362(1)(b), and in accordance with KRS 335B.010 to 335B.070.

Section 4. Appeals. (1) An applicant may appeal the denial of his or her licensure application by requesting a hearing in accordance with KRS 309.362(2). In order to request a hearing, the applicant shall file a notice of appeal in writing within thirty (30) days of the date of the letter informing the applicant of the denial.

Section 5. Incorporation by Reference. (1) The "Application for Licensure Through Endorsement as a Massage Therapist", June 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Professional Licensing, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://bmt.ky.gov/>.

BRANDY MADDING, LMT, Chair

APPROVED BY AGENCY: September 13, 2021

FILED WITH LRC: September 15, 2021 at 9:58 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 8:00 a.m. EST on November 29, 2021, at 500 Mero Street, 133CE, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to attend the meeting by video conference:

Join from PC, Mac, Linux, iOS or Android:
<https://us02web.zoom.us/j/85834511709?pwd=ZENzSmp5Q0MyQS9GK01vcFpCTjJVQT09>

Password: 270127

Or Telephone:

Dial:

USA 713 353 0212

USA 8888227517 (US Toll Free)

Conference code: 511232

Find local AT&T Numbers:
<https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=511232>

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
Meeting ID: 858 3451 1709
Password: 270127
SIP: 85834511709@zoomcrc.com
Password: 270127

Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date (November 18), the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. EST on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Leah Cooper Boggs, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (office) (502) 782-0562, phone (cell) (502) 352-8095, fax (502) 564-3969, email LBoggs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leah Cooper Boggs

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedure to apply for licensure by endorsement.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to update and clarify the requirements to obtain licensure by endorsement.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Board is required by KRS 309.355(1) to regulate the practice of massage therapy. KRS 309.355(3) also authorizes the Board to promulgate administrative regulations regarding the practice of massage therapy.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed regulation updates and clarifies the requirements to obtain licensure by endorsement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It deletes the differentiation between states with equal standards and states with lesser standards than Kentucky, and makes the requirements same for everyone, regardless of the other state. It also adds a process for military spouses and dependents, updates which examinations are acceptable,

clarifies how long a prospective applicant has to practice in the initial licensing state before endorsement will be considered, clarifies that the school must qualify for a Certificate of Good Standing from Kentucky, clarifies what documentation of employment is acceptable, and updates the regulation to conform to the statutory amendment regarding criminal histories.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect individuals interested in obtaining licensure by endorsement from the Board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None. It only updates and clarifies the requirements to obtain licensure by endorsement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It will assist prospective licensees in understanding the process to obtain licensure by endorsement.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost to the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable as the proposed language will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Licensure for Massage Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(1), 309.355(3)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation

will not create any additional expenses or revenues for any state or local government agency after implementation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fires, or school districts) for the first year? No revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: