

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p style="margin: 0;">INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p style="margin: 0;">RECEIVED</p> <p style="margin: 0;"><small>Independent Regulatory Review Commission</small></p> <p style="margin: 0;">December 4, 2023</p>	
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Massage Therapy</p>		<p>IRRC Number: 3392</p>	
<p>(2) Agency Number: 16A Identification Number: 726</p>			
<p>(3) PA Code Cite: 49 Pa. Code §§ 20.61 and 20.62</p>			
<p>(4) Short Title: Massage Therapy in Cosmetology or Esthetician Salons</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Jared L. Hinsey, Board Counsel, State Board of Cosmetology, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) jhinsey@pa.gov. Secondary Contact: Thomas M. Davis, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) tmdavis@pa.gov.</p>			
<p>6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> FINAL REGULATION</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This rulemaking is authorized by the act of September 24, 2014, (P.L. 2476, No. 136) (Act 136), which amended the Cosmetology Law (63 P.S. §§ 507- 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon.</p> <p>Effective November 24, 2014, section 9.3(a) of the Cosmetology Law (63 P.S. § 515.3) permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or licensed esthetician salon. Section 9.3 immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the Board’s joint regulations with the Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.</p>			

(8) State the statutory authority for the regulation. Include specific statutory citation.

The act of September 24, 2014, (P.L. 2476, No. 136) (Act 136) amended the Cosmetology Law (63 P.S. §§ 507 – 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Section 9.3(d) of the Cosmetology Law requires the Cosmetology Board and the State Board of Massage Therapy (Massage Board) to jointly promulgate final regulations to carry out the provisions of section 9.3.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is required by section 9.3(d) of the Cosmetology Law, which provides that the Cosmetology Board and the Massage Board jointly promulgate final regulations to carry out the provisions of section 9.3. Otherwise, it is not required by any Federal or state law or court order, or Federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

While Act 136 authorized massage therapists to practice massage therapy within the approved premises of licensed cosmetology and esthetician salons under specified conditions, Act 136 also compels the Board and the Cosmetology Board to promulgate joint regulations to clarify requirements set forth in the law which will ensure safety of individuals receiving massage therapy services in salons.

There are approximately 8,693 licensed massage therapists in this Commonwealth, and the proposed regulation will benefit every massage therapist who has contemplated working in a salon that offers massage therapy services, because the proposed regulation addresses the responsibilities of salon owners, massage therapists, cosmetologists and estheticians working in such a salon.

In this Commonwealth, there are approximately 13,960 licensed cosmetology salons and approximately 2,728 licensed esthetician salons (16,688 salons in total). The Cosmetology Board and Massage Board estimate that as many as one half of these salons in the Commonwealth offer massage therapy services. Therefore, approximately 8,344 salons may be affected by the regulation.

The proposed regulation will benefit individuals working in salons that offers massage therapy services and will also benefit individuals receiving such services. Act 136 was enacted in an effort to modernize the Cosmetology Law and to update the law and regulations to reflect the developments in the spa industry. While some adjustments may need to occur to accommodate massage therapy within salons due to size requirements of massage therapy rooms, such adjustments will improve the services and safety of individuals receiving such services.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions more stringent than federal standards, as there are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Of the thirteen (13) states that make up the Northeast quadrant of the United States, none of them prohibit massage therapy from being practiced in a cosmetology or esthetician salon, accordingly, none of them address privacy concerns with relation to massage therapy clients in cosmetology or esthetician salons. The practice of massage therapy was not permissible until the passage of Act 136 of 2014 (63 P.S. § 515.3), which was approved on September 24, 2014. Act 136 positively affects the Commonwealth's ability to compete, by allowing salons in the Commonwealth to hire massage therapists and offer massage therapy services. Much of the proposed regulation clarifies and implements section 9.3 of the Cosmetology law and sets forth the responsibilities of massage therapists when practicing in cosmetology or esthetician salons. The privacy standards are based on the statutory requirements in Act 136, which defines appropriate levels of privacy for massage clients when massage therapists are practicing in cosmetology or esthetician salons.

Subsection (a)(2)(ii)(B) requires that massage therapy rooms be a minimum of 120 square feet in size, which is a generally accepted industry standard based on the size of a standard massage table (73 inches x 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). Being that 120 square feet is an industry standard minimum size for massage therapy rooms, massage therapists nationwide are expected to perform massage therapy in rooms no smaller than 120 square feet, and such a requirement should come as no surprise to licensed massage therapists.

Accordingly, this regulation will not adversely affect Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking does not affect other regulations of the Massage Board or other state agencies. The regulations are joint regulations with the Cosmetology Board. The Cosmetology Board is proposing the same square footage requirement for massage therapy rooms.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This proposed regulation was discussed on the record at no fewer than 16 regularly scheduled Massage Board meetings between December 2014 and February 2020. Donald McConnell, Regional Developer, Massage Envy Spa (the largest franchise provider of therapeutic massages and skin care in the United States, with 25 locations in the Commonwealth of Pennsylvania) attended the February 2015 meeting and aided the Massage Board in drafting the language of the Annex. The Cosmetology Board provided input on April 7, 2015, when the decision was made to require that massage therapy rooms established within the square footage of a salon be a minimum of 120 square feet, and regulated community provided additional input at the June 9, 2015 Massage Board meeting.

Between 2015 and 2019, the Board explored the possibility of incorporating Act 136 in a proposed “general revisions” regulation. However, between 2019 and 2021, it became clear that combining these regulations with the Board’s general revisions regulation was too cumbersome. Accordingly, in an effort to move the proposed regulations relating to Act 136 forward, the Board separated these regulations from the general revisions.

An exposure draft was released to interested parties and stakeholders (including the American massage Therapy Association (AMTA), Associated Bodywork & Massage Professionals (ABMP), Federation of State Massage Therapy Boards (FSMTB), National Certification Board for Therapeutic Massage & Bodywork (NCBTMB), and numerous other professional associations and individuals) on November 4, 2020. At the February 16, 2021, Board meeting, the Board was informed that no comments were received in response to the exposure draft. A list of the stakeholders is attached as Attachment “A.”

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

According to the Small Business Administration (SBA), there are approximately 1,095,907 businesses in Pennsylvania; of which 1,091,524 are small businesses. Of the 1,091,524 small businesses, 226,483 are small employers (those with fewer than 500 employees) and the remaining 865,041 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

For purposes of this rulemaking, all licensed massage therapists will be impacted by this regulation because it sets forth requirements for massage therapy rooms in salons. Additionally, cosmetology and esthetician salons will be impacted.

According to the Pennsylvania Department of Labor and Industry (Department of Labor & Industry), in 2020, massage therapists held about 144,600 jobs nationally, and are employed in the following private sector positions: self-employed workers (35%); offices of all other health practitioners (23%); other amusement and recreation industries (3.25%) and accommodation (.25%). There are approximately 8,693 licensed massage therapists in this Commonwealth.

According to the Department of Labor & Industry, in 2020, cosmetologists held approximately 569,600 jobs nationally, and approximately 12,689 within this Commonwealth, and are employed in the following private sector positions: personal care services (46%); self-employed workers (43%); retail trade (10%). Estheticians held approximately 68,700 jobs nationally, and approximately 2,063 in this Commonwealth and are employed in the following private sector positions: personal care services (40%); self-employed workers (31%); offices of physicians (4%), other amusement and recreation industries (1.4 %) and traveler accommodation (1.1%).

In this Commonwealth, there are approximately 79,533 cosmetologists, 8,787 estheticians, and 13,860 nail technicians. Furthermore, there are approximately 13,960 licensed cosmetology salons and approximately 2,728 licensed esthetician salons (16,688 salons in total). The Cosmetology Board and Massage Board estimate that as many as one half of the cosmetology and esthetician salons in the Commonwealth offer massage therapy services. Therefore, approximately 8,344 cosmetology and esthetician salons may be affected by the regulation.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the Small Business Administration (SBA) Small Business Size

Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the 2019 NAICS standards to the types of businesses that would be impacted by this proposed regulation, a small business is one that has \$8.0 million or less in average annual receipts for cosmetology (beauty) salons (812112) and businesses that offer other personal services (812199).

The Board does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, because 99% of all businesses in the Commonwealth are small businesses, the Board must assume that a large number of its licensees either are or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

This rulemaking only affects salons that choose to allow for the practice of massage therapy and massage therapists who practice in those salons.

The Massage Board's and Cosmetology Board's joint decision to require a minimum of 120 square feet for massage rooms in salons is expected to have a minimal effect on the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Most, if not all massage therapy rooms currently in use should already be a minimum of 120 square feet in size because that is a generally accepted industry standard based on the size of a standard massage table (73 inches x 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). This regulation will have an overall positive effect on salons, massage therapists, and massage clients, because it will require that massage therapy services be provided in a room large enough to safely accommodate the massage therapist, the massage table, and the client.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Only those licensees who wish to offer massage services in salons will be required to comply with the proposed regulation. Salon owners who decide to offer massage therapy services (approximately 8,344), and massage therapists who provide services in salons, will be required to comply with the proposed regulation. The Massage Board does not track licensee places of business. Additionally, many licensees work on a part-time basis, and many licensees are believed to work at multiple locations. Accordingly, there is no way to properly estimate how many massage therapists currently work in salons.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This regulation authorized by section 9.3(d) of the Cosmetology Law, which requires that the Cosmetology Board and the Massage Board jointly promulgate final regulations to carry out the provisions of section 9.3. Accordingly, in drafting its proposed regulation, the Massage Board has determined that regulations are necessary to establish minimum square footage for massage rooms at a minimum of 120 square feet.

Much of the proposed regulation reiterates section 9.3 of the Cosmetology law, but it plays an important role, which is to inform massage therapists of their rights and responsibilities under the Cosmetology law

by including the content of section 9.3 into the Massage Board's regulations. Beyond that, the proposed regulation defines an appropriate level of privacy for massage clients in cosmetology or esthetician salons.

The Massage Board and Cosmetology Board's decision to jointly require a minimum of 120 square feet for massage rooms in salons is expected to have a minimal effect on the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. The proposed 120-square-foot room requirement will only affect salon owners who elect to offer massage therapy services. Some salons will have to undergo renovations to meet the 120-square-foot requirement; and if this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only salons that have made this cost-benefit analysis will undergo renovations, and the logical conclusion would be that the salons spending money on renovations have determined that to do so would be in their economic interests because benefits outweigh costs. This regulation will have an overall positive effect on salons, massage therapists, and massage clients, because it will require that massage therapy services be provided in a room large enough to safely accommodate the massage therapist, the massage table, and the client.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This regulation is required by section 9.3(d) of the Cosmetology Law, which provides that the Cosmetology Board and the Massage Board jointly promulgate final regulations to carry out the provisions of section 9.3. The proposed regulation requires massage therapy rooms be at least 120 square feet in size. The Massage Board, in conjunction with the Cosmetology Board, and with input from interested stakeholders, determined it was necessary to establish specific square footage for massage therapy rooms in salons because the Cosmetology Board regulations at 49 Pa. Code § 7.76 set forth room sizes for cosmetologists that do not take into consideration the different needs of massage therapy.

The benefits of requiring that salons provide massage therapists with rooms that are at least 120 square feet in size as compared to the Cosmetology Board's current 60-square-foot requirement outweigh the costs because establishing massage therapy room size is necessary to provide for a safe environment. Most, if not all massage therapy rooms currently in use should already be a minimum of 120 square feet in size because that is a generally accepted industry standard based on the size of a standard massage table (73 inches x 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). Additionally, it is safer because along with the massage therapy table, the room must fit all the typical massage therapy supplies to include oils and towels. Moreover, clients typically use the massage therapy room to disrobe and transition to the massage therapy table. This will require a chair, as well as clothing storage such as clothing hooks or a shelving unit. The Board believes allowing a massage therapist to perform massage therapy, multiple times a day, in any room smaller than 120 square feet would be a safety risk.

Only those salons that offer massage therapy services will have to ensure that the separate massage therapy room(s) have the required square footage. Some of these salons will have to undergo renovations to meet the 120-square-foot requirement; and if this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only salons that have made this cost-benefit analysis will undergo renovations, and the logical conclusion would be that the salons spending money on renovations have determined that to do so would be in their economic interests because benefits outweigh costs.

Massage therapists have benefited from Act 136 because massage therapy licensees are able to offer services in salons, and the proposed regulation ensures that they will be able practice in an appropriately sized massage therapy room of a minimum of 120 square feet.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Massage Board does not anticipate any costs to massage therapists but rather, anticipates that the proposed regulation will benefit massage therapists because it ensures a safe and appropriate workspace for massage therapy. While many established salons may be able to move a massage therapist from a small room to an appropriately sized room, some salons may incur costs if renovations are necessary to meet the square foot requirements for massage therapy rooms. The proposed 120-square-foot room requirement will only affect salon owners who elect to offer massage therapy services. Some salons will have to undergo renovations to meet the 120-square-foot requirement; and if this is the case, they will have to decide whether the cost of renovations outweighs the potential income. However, only salons that have made this cost-benefit analysis will undergo renovations, and the logical conclusion would be that the salons spending money on renovations have determined that to do so would be in their economic interests because benefits outweigh costs.

Any renovations done to meet the square foot requirement would vastly vary based upon what renovations would be needed.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation would not result in costs or savings to local governments. Should a salon elect to renovate, permits would likely be required, but this would be a cost bore by a salon owner, not the local government.

(21) Provide a specific estimate of the costs and/or savings to the state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Massage Board is not expected to incur any increased costs in light of this proposed regulation. Under section 9.3(b) of the Cosmetology Law massage therapists practicing in salons are subject to inspection by the Cosmetology Board and the Massage Board. The Cosmetology Board currently conducts such inspections. For the Massage Board to conduct inspections in accordance with this section, inspectors would be inspecting massage therapy rooms within the square footage of salons, and these salons are already being inspected by Cosmetology Board inspectors. Therefore, the Massage Board is not inclined to conduct such duplicative inspections, which would likely require it to raise its fees, because salons are already being inspected.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There should be no legal, accounting or consulting procedures associated with this rulemaking.

(22a) Are forms required for implementation of the regulation?

No new forms must be generated by the Massage Board to implement this regulation.

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.

No new forms must be generated by the Massage Board to implement this regulation.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 23-24	FY +1 24-25	FY +2 25-26	FY +3 26-27	FY +4 27-28	FY +5 28-29
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2020-2021 (actual)	FY -2 2021-2022 (actual)	FY -1 2022-2023 (budget)	Current FY 2023-2024 (proposed budget)
State Board of Massage Therapy	\$867,081.57	\$770,395.29	\$835,000.00	\$794,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
 - (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
 - (c) A statement of probable effect on impacted small businesses.
 - (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
- (a) The small businesses ultimately subject to this proposed regulation are cosmetology and esthetician salons that offer massage therapy services (approximately 8,344).
- (b) There are no additional reporting, recordkeeping or other administrative costs, imposed by the Massage Board, required for compliance with the proposed regulation.
- (c) The impacted small business are salons that decide to offer massage therapy services. Accordingly, as the decision to offer massage therapy services in a cosmetology or esthetician salon is entirely voluntary, the expected probable impact of this regulation on small businesses is that these businesses will increase revenue.
- (d) The Massage Board could discern no less costly or intrusive alternative methods achieve the purpose of the proposed regulation. The Massage Board has proposed a minimum size of massage therapy rooms in salons, requiring that such rooms be a minimum of 120 square feet in size. The Cosmetology Board’s regulations set minimum room size at 60 square feet “for each additional licensee in the salon.” The Massage Board and Cosmetology Board agreed that 60-square feet for a massage therapist is insufficient. Massage therapy requires more room to maneuver around a client as compared to the space needed for a cosmetology or esthetician client. A 60-square-foot room would not provide a massage therapist sufficient room to safely maneuver around a standard-sized massage table (73 inches x 30 inches) and keep the necessary supplies at hand. Additionally, massage therapy clients are often asked to position their arms at a 90-degree angle to the body, and the massage therapist must safely maneuver around the client’s outstretched arms. Moreover, clients are typically expected to use the massage therapy room to disrobe and transition to the massage therapy table. This will require a chair, as well as clothing storage such as clothing hooks or a shelving unit. It would be a safety risk to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet. Accordingly, after discussing this issue at a public board meeting, and after reaching an agreement with the Cosmetology Board, the Massage Board is of the opinion that a minimum room size of 120 square feet is appropriate.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed for any affected groups or persons.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

For a time, the Massage Board considered a minimum room size of 90 square feet. However, after additional consideration and review of current industry standards, as well as input from the Cosmetology Board, it became clear that the minimum square footage was insufficient. Accordingly, after discussing this issue at public board meetings, and after reaching an agreement with the Cosmetology Board, the Massage Board proposes a minimum room size of 120 square feet to ensure public safety. The Massage Board believes this proposal represents the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
 - b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - c) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
 - e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
- a) & b) The Massage Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. The proposed regulation does not include reporting requirements or deadlines.
- a) It would be a safety risk to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet. There are no reporting requirements in the proposed regulation.
 - b) It would be a safety risk to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet; therefore, the Board did not consider different standards for small businesses.
 - c) It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet; therefore, the Board did not consider different standards for small businesses.

- d) It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet; therefore, the Board did not consider different standards for small businesses.
- e) It would be a safety hazard to expect a massage therapist to safely perform massage therapy, multiple times a day, in any room smaller than 120 square feet; therefore, the Board did not consider different an exemption for small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data, studies or references were used to justify the regulation.

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: 30 days.

B. The date or dates on which any public meetings or hearings will be held:

No public hearings were scheduled or held. The Massage Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at the February 10, 2015, April 7, 2015, June 9, 2015, September 22, 2020, and November 4, 2020 public Board meetings. An exposure draft of the proposed regulation was released to interested parties and stakeholders on November 6, 2020. No comments were received. The Massage Board voted to promulgate the proposed regulation on June 1, 2021.

C. The expected date of the final-form regulation: (Winter 2023).

D. The expected effective date of the final-form regulation: Upon publication as final.

E. The expected date by which compliance with the final-form regulation will be required: Upon publication as final.

F. The expected date by which required permits, licenses or other approvals must be obtained:
N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Massage Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Massage Board reviews its regulatory proposals at regularly scheduled public meetings. The Massage Board's 2023 remaining meeting dates are as follows: November 14. The Massage Board's 2024 meeting dates are as follows: February 13, April 2, June 4, August 13, September 24, and December 3. More information can be found on the Massage Board's website (www.dos.pa.gov/massagetherapy).

Attachment A

Groups/Associations and individual contacts

The Upledger Institute, Inc.	American Cranio-Sacral Therapy Association
Kim Kane-Santos, LMT	American Massage Therapy Association
Nancy Porambo	American Massage Therapy Association
Fred Broadbent	American Massage Therapy Association
Kelly Givens	American Medical Massage Association
Jean Robinson	Associated Bodywork & Massage Professionals
Nancy Potter	Associated Bodywork & Massage Professionals
Sharon Puszko	Day-Break Geriatric Massage Project
Sally Hacking	Federation of State Massage Therapy Boards
Ed Portley Jr	Just This Side of Heaven Massage
Christen Weipert	Massage Envy
Donald McConnell	Massage Envy
Melissa Leonard	Massage Envy
Lisa Hulbert	Metro Beauty Academy
Pat Mayrhofer	Nature's Stones Inc.
Leena S. Guptha	NCBTMB
Aaron Shenck	Penn. Association of Private School Administrators
Richard Dumaresq, Ed.D.	Penn. Association of Private School Administrators
Robert Jantsch	Pittsburgh School of Massage Therapy
Odile Atthalin, MA	Rosen Method Open Center
Amy Goldlust	Stateside Associates
Cynthia Johannes-Beecher	WellSpan Center for Mind/Body Health
Angelina Garofalo	WellSpan Center for Mind/Body Health
Angie Ambrust	The Winter Group
Natalie Cook	The Winter Group
Peg Callahan	The Winter Group
Ted Mowatt	Wanner Associates

Groups/Associations with no individual contact listed

American Oriental Bodywork Therapy Association

Federation of State Massage Therapy Boards

Healing Touch International

International Association of Infant Massage

International Massage Association

International Myomassethics Federation, Inc

NAMASTA (North American Studio Alliance)

National Association of Nurse Massage Therapists

Therapeutic Touch International Association

Unaffiliated individuals

Joanne Mengel

Kathy Sankey

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

RECEIVED

Independent Regulatory
Review Commission

December 4, 2023

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

Amy M.
Elliott
BY: Elliott
(DEPUTY ATTORNEY GENERAL)

Digitally signed by Amy M. Elliott
DN: cn=Amy M. Elliott,
o=Pennsylvania Office of Attorney
General, ou=Chief Deputy Attorney
General, email=aelliott@attorneygeneral.gov,
c=US
Date: 2023.01.30 11:53:40 -0500

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

State Board of Massage Therapy
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-726

DATE OF ADOPTION: 8/26/2022

BY: Nancy M. Porambo
Nancy M. Porambo, LMT

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is approved as
to form and legality.
Executive or Independent
Agencies.

BY: [Signature]

10/30/2022
DATE OF APPROVAL

(Executive Deputy General Counsel
Strike inapplicable title)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY
49 PA CODE, CHAPTER 20

§§ 20.61 and 20.62

PRACTICE OF MASSAGE THERAPY IN
COSMETOLOGY OR ESTHETICIAN SALONS

The State Board of Massage Therapy (Massage Board) proposes to add § 20.61 (relating to definitions) and § 20.62 (relating to the practice of massage therapy in cosmetology and esthetician salons) to read as set forth in Annex A.

Effective date

The amendments will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory authority

The act of September 24, 2014, (P.L. 2476, No. 136) (Act 136) amended the Cosmetology Law (63 P.S. §§ 507 – 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Section 9.3(d) of the Cosmetology Law requires the State Board of Cosmetology (Cosmetology Board) and the Massage Board to jointly promulgate final regulations to carry out the provisions of section 9.3.

Background and purpose

Section 9.3(a) of the Cosmetology Law permits an individual licensed under the Massage Therapy Law (63 P.S. §§ 627.1 – 627.50) to practice massage therapy within the approved premises of a licensed cosmetology salon or a licensed esthetician salon if: (1) the massage therapy licensee is the owner of or employed by the salon and is not an independent contractor; (2) the massage therapist practices in accordance with the Cosmetology Law and the Massage Therapy Law; (3) the salon owner provides an appropriate level of privacy for clients. Section 9.3(a)(3)(i-ii) of the Cosmetology Law provides that no physical barrier is required when the massage therapist is performing services that a cosmetologist or esthetician could perform; however, should the services exceed those within the scope of cosmetology or esthetics a separate room with permanent walls and doors must be utilized. Section 9.3(a)(3)(iii) of the Cosmetology Law further provides that an esthetician may provide services in the separate room that is designated for massage therapy services, so long as the cosmetologist or esthetician and massage therapist are not providing services concurrently.

Under section 9.3(b) of the Cosmetology Law, a licensee is subject to inspection by the Cosmetology Board and the Massage Board. A licensee who violates the Cosmetology Law or the Massage Therapy Law is subject to discipline by the licensee's applicable licensing board. Section 9.3 of the Cosmetology Law was effective on November 24, 2014, and immediately permitted the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. The purpose of the Board's joint regulations with the Cosmetology Board is to clarify standards for the practice of massage therapy in cosmetology or esthetician salons.

Prior to the enactment of section 9.3, a patron wishing to receive services from a massage therapist and an esthetician would have to move from one room (a room considered not to be within the licensed square footage of the salon) to another room (a room considered to be within the licensed square footage of the salon) for each of the requested services. This process was found

to be averse to the relaxing environment facilities were attempting to provide for their clients. The purpose of section 9.3 (63 P.S. § 515.3) of the Cosmetology Law is to allow for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. With the enactment of section 9.3(a)(3)(iii) (63 P.S. § 515.3(a)(3)(iii)), a patron can receive massage therapy and esthetic services all within one room. This rulemaking sets forth the requirements for practicing massage therapy in a cosmetology or esthetician salon. The Cosmetology Board is similarly updating its regulations to clarify the standards for massage therapy in its salons and to ensure consistency between the standards of both boards.

Description of the proposed amendments

The Massage Board proposes to add §§ 20.61 and 20.62 to set forth the standards for practicing massage therapy within a cosmetology or esthetician salon under section 9.3 (63 P.S. § 515.3) of the Cosmetology Law.

Section 20.61 (relating to definitions) defines the terms “Cosmetology Law” and “salon,” in relation to § 20.62. Section 20.62(a) sets forth the conditions that must be met to practice massage therapy within a cosmetology or esthetician salon, as required by section 9.3(a) of the Cosmetology Law. Subsection (a)(1) states that a massage therapist must be the owner of the salon or an employee (not an independent contractor), as required by section 9.3(a)(1) of the Cosmetology Law.

Subsection (a)(2) requires that a salon owner provide an appropriate level of privacy for clients. Subsection (a)(2)(i)(A-B) clarifies that when a massage therapist is practicing in a separate massage therapy room of the salon, or in the areas of the salon used for cosmetology or esthetics, the massage therapist is practicing in the licensed square footage of the salon. Furthermore, subsection (a)(2)(i)(A-B) provides clarification as to what services require a separate massage therapy room by specifically listing the massage services that do not require the use of physical barriers. The Board’s proposed regulation reflects section 9.3(a)(3)(i) of the Cosmetology Law which provides that no physical barriers separating the areas used for massage therapy from the areas used for cosmetology or esthetics, as defined in section 1 of the Cosmetology Law (63 P.S. § 507), shall be required when a massage therapist performs massage services that a cosmetologist or esthetician is authorized to perform. Subsection (a)(2)(ii) clarifies that when a massage therapist is practicing in a separate massage therapy room of the salon, the massage therapist is practicing in the licensed square footage of the salon. Furthermore, subsection (a)(2)(ii) requires that a salon owner provide separate massage therapy rooms with permanent walls and doors to ensure privacy for clients receiving massage services from a massage therapist when the services are beyond the practice of cosmetology or esthetics, as required by section 9.3(a)(3)(i) of the Cosmetology Law.

Subsections (a)(2)(ii)(A) through (C) set forth standards for separate massage therapy rooms. Subsection (a)(2)(ii)(A) requires that massage therapy rooms be a minimum of 120 square feet in size, which is a generally accepted industry standard based on the size of a standard massage table (73 inches x 30 inches) and allows room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). The Massage Board feels this requirement is necessary because § 7.76(a) of the Cosmetology Board’s regulations require an “additional area of at least 60 square feet ... for each additional licensee in the salon,” 49 Pa. Code § 7.76(a))

(relating to floor space). Accordingly, it is likely that salon owners unfamiliar with the practice of massage therapy will expect massage therapists to perform massage therapy in rooms designed for the practice of cosmetology or esthetician services (i.e., rooms with little more than 60 square feet in size). A 60-square-foot room does not provide a massage therapist sufficient room to safely maneuver around a standard-sized massage table and keep the necessary supplies at hand. Additionally, massage therapy clients are often asked to position their arms at a 90-degree angle to the body, and the massage therapist must safely maneuver around the client's outstretched arms. Moreover, clients are typically expected to use the massage therapy room to disrobe and transition to the massage therapy table. Accordingly, massage therapy rooms frequently include a chair, as well as clothing storage such as clothing hooks or a shelving unit. It would be a safety risk to expect a massage therapist to safely perform massage therapy multiple times a day in any room smaller than 120 square feet. Accordingly, after discussing this issue at public board meetings, and reaching an agreement with the Cosmetology Board, the Massage Board is of the opinion that a minimum room size of 120 square feet is appropriate.

Subsection (a)(2)(ii)(B) discusses the storage of linens or other supplies used by a massage therapist in a salon. Cosmetology Board regulations set minimum standards for equipment and supplies, detailing what must be available to licensees/certificate holders, and where linens must be stored. (49 Pa. Code §§ 7.71a - 7.71c) (relating to equipment and supplies for salons). Being that massage therapists working in salons will be required to adhere to both Massage Board regulations and Cosmetology Board regulations, the Massage Board believes that it must clarify where massage therapists may store linens and other supplies. Accordingly, subsection (a)(2)(ii)(C) allows the massage therapist to store linens or other supplies used for massage therapy in the massage therapy room or in the salon in a space designated by the salon owner.

Subsection (a)(2)(ii)(C) states esthetician services may be provided in the massage therapy room, so long as esthetician services were not provided concurrent to the massage therapy services, as required by section 9.3(a)(3)(iii) of the Cosmetology Law.

Subsection (b) requires a massage therapist practicing massage therapy within the approved premises of a salon to practice in accordance with act, the Massage Board's regulations, and the Cosmetology Law, as required by section 9.3(a)(2) of the Cosmetology Law.

Subsection (c) states that a massage therapist practicing in accordance with section 9.3 of the Cosmetology Law would be subject to inspection by both the Massage Board and Cosmetology Board, as required by section 9.3(b) of the Cosmetology Law.

Subsection (d) states that a massage therapist practicing in a salon, who violates the Cosmetology Law or the Massage Therapy Law, is subject to discipline by the Massage Board, as required by section 9.3(c) of the Cosmetology Law.

Fiscal Impact and Paperwork Requirements

There will be no unnecessary negative fiscal impact on licensees or the Massage Board. Section 9.3 of the Cosmetology Law permits the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon as of November 24, 2014. The Massage Board

does not track how many massage therapists work in salons. Furthermore, the Massage Board does not track how many massage therapists may be working in rooms smaller than required in this proposed regulation. However, it is unlikely that any significant number of massage therapists have been practicing in rooms smaller than 120 square feet because the practice of massage therapy in any room smaller than 120 square feet would be difficult, and potentially dangerous. Furthermore, 120 square feet is a generally accepted minimum industry standard based on the size of a standard massage table (73 inches x 30 inches) and allowing room for a massage therapist to safely maneuver around it (approximately 3 to 4 feet on each side of the table). However, the small number of massage therapists who may be currently working in rooms smaller than 120 square feet will have to comply with the proposed regulation. For the reasons explained in this Preamble, it is in the public interest to require that massage therapy be performed in a room large enough to accommodate all that is required.

Sunset Date

The Massage Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 4, 2023, the Massage Board submitted a copy of this proposed rulemaking and a copy of a regulatory analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commissioner, the General Assembly, and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to Regulatory Counsel, Department of State at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail to RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to rulemaking 16A-726 (massage therapy in cosmetology and esthetician salons).

Nancy M. Porambo, L.M.T.
Chairperson
State Board of Massage Therapy

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 20. STATE BOARD OF MASSAGE THERAPY

**PRACTICE OF MASSAGE THERAPY IN
COSMETOLOGY OR ESTHETICIAN SALONS**

§ 20.61. Definitions.

The following words and terms, when used in § 20.62, have the following meanings, unless the context clearly indicates otherwise:

Cosmetology Law – The Beauty Culture Law (63 P. S. §§ 507—527).

Salon – Cosmetology salons and esthetician salons licensed by the State Board of Cosmetology in accordance with the Cosmetology Law.

§ 20.62. Practice of Massage Therapy in Cosmetology or Esthetician Salons.

(a) A massage therapist licensed under the act is permitted to practice massage therapy within the approved premises of a salon if the following conditions are met:

(1) The massage therapist is the owner of or employed by the salon and is not an independent contractor.

(2) The salon owner provides an appropriate level of privacy for clients in accordance with the following:

(i) *Massage therapy services within the scope of practice of the Cosmetology Law.*

When a massage therapist is practicing in a separate massage therapy room of the salon, or in the areas of the salon used for cosmetology or esthetics, the massage therapist is

practicing in the licensed square footage of the salon. Physical barriers separating the areas used for massage therapy services from the areas used for cosmetology or esthetics are not required when a massage therapist provides massage therapy services that are within the scope of practice of cosmetology as defined in § 7.1 of Chapter 7 (relating to State Board of Cosmetology) as follows:

(A) Massage therapy services of the scalp, face, arms or hands, or the upper part of the body.

(B) Massage therapy services of the feet or the lower legs of an individual up to the individual's knee.

(ii) Massage therapy services beyond the scope of practice of the Cosmetology Law.

When a massage therapist is practicing in a separate massage therapy room of the salon, the massage therapist is practicing in the licensed square footage of the salon. A salon owner shall provide separate massage therapy rooms with permanent walls and doors to ensure privacy for clients receiving massage therapy services from a massage therapist when the massage therapy services are beyond the scope of practice of cosmetology or esthetics as provided in § 7.1 of Chapter 7.

(A) The size of the separate massage therapy room must be a minimum of 120 square feet.

(B) The massage therapist may store linens or other supplies in the separate room provided or in the salon in a space designated by the salon owner.

(C) Esthetician services may be provided to a client in the same room where the client receives massage therapy, provided these services are not performed concurrently.

(b) A massage therapist providing massage therapy services within the approved premises of a salon shall practice in accordance with the act, this chapter and the Cosmetology Law.

(c) A massage therapist providing massage therapy services within the approved premises of a salon is subject to inspection by the State Board of Cosmetology and the Board.

(d) A massage therapist providing massage therapy services within the approved premises of a salon who violates the Cosmetology Law, the act or this section is subject to discipline by the Board.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717)783-7155

December 4, 2023

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Rulemaking
State Board of Massage Therapy
16A-726: Massage Therapy in Cosmetology or Esthetician Salons

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Massage Therapy pertaining to Massage Therapy in Cosmetology or Esthetician Salons.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in cursive script, reading "Nancy M. Porambo".

Nancy Porambo, LMT, Chairperson
State Board of Massage Therapy

NP/TMD/jpp
Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs
Andrew LaFratte, Executive Policy Specialist, Department of State
Cynthia Montgomery, Deputy Chief Counsel, Department of State
Thomas M. Davis, Regulatory Unit Counsel, Department of State
Jared L. Hinsey, Board Counsel, State Board of Massage Therapy
State Board of Massage Therapy

RECEIVED

From: [Orchard, Kari L.](#)
To: [Porta, Jason](#); [Barton, Jamie](#); [Brett, Joseph D.](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS 16A-4518 & 16A-726
Date: Monday, December 4, 2023 10:37:38 AM

Independent Regulatory
Review Commission

December 4, 2023

Received.

Kari Orchard

Executive Director (D) | House Professional Licensure Committee

Chairman Frank Burns, 72nd Legislative District

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 9:42 AM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATIONS 16A-4518 & 16A-726
Importance: High

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

Please be advised that the State Board of Cosmetology and State Board of Massage Therapy are jointly delivering the below proposed rulemakings,

Thank you for your attention to this matter.

- 16A-4518 & 16A-726: Massage Therapy in Cosmetology or Esthetician Salons
 - Currently, Section 7.77 of the State Board of Cosmetology regulations (49 Pa. Code, Chapter 7) prohibits any part of a salon from being used for any purposes other than the practice of cosmetology. Act 136 of 2014, amended the Beauty Culture Law (the Cosmetology Law) (63 P.S. §§ 507 – 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Additionally, section 9.3 directs the State Board of Cosmetology and the State Board of Massage Therapy to jointly promulgate regulations to carry out the provisions of section 9.3. In response, the Boards have drafted and now propose the attached, jointly-promulgated rulemakings.

Jason P. Porta | Legal Assistant II
Counsel Division
PA Department of State | Office of General Counsel
2601 North 3rd St
Harrisburg, PA 17105
Phone: 717.783.7200 | Fax: 717.787.0251
www.dos.state.pa.us

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From: [Nicole Sidle](#)
To: [Porta, Jason](#); [Francesca Summa](#)
Subject: RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS 16A-726 & 16A-4518
Date: Monday, December 4, 2023 12:04:45 PM

Independent Regulatory
Review Commission
December 4, 2023

Good Afternoon—

This has been received.
Thanks,
Nicole

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 9:36 AM
To: Nicole Sidle <Nsidle@pahousegop.com>; Francesca Summa <Fsumma@pahousegop.com>
Subject: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS 16A-726 & 16A-4518
Importance: High

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From: [Smeltz, Jennifer](#)
To: [Porta, Jason](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS 16A-726 and 16A-4518
Date: Monday, December 4, 2023 9:35:32 AM

Independent Regulatory
Review Commission
December 4, 2023

Received.

*Jen Smeltz
Executive Director
Office of Senator Pat Stefano
Consumer Protection and Professional Licensure Committee
Phone: (717) 787-7175*

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 9:32 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY NOTICE: REGULATIONS 16A-726 and 16A-4518
Importance: High

ⓘ CAUTION : External Email ⓘ

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

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www.dos.state.pa.us

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From: [Vazquez, Enid](#)
To: [Porta, Jason](#); [Monoski, Jesse](#)
Subject: RE: DELIVERY NOTICE: REGULATIONS 16A-4518 & 16A-726
Date: Monday, December 4, 2023 9:55:51 AM

Independent Regulatory
Review Commission

December 4, 2023

Received. Thank you!

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 9:39 AM
To: Monoski, Jesse <jesse.monoski@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>
Subject: DELIVERY NOTICE: REGULATIONS 16A-4518 & 16A-726
Importance: High

EXTERNAL EMAIL

Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings.

Please be advised that the State Board of Cosmetology and State Board of Massage Therapy are jointly delivering the below proposed rulemakings,

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From: [Bulletin](#)
To: [Porta, Jason](#)
Cc: [Keval Mandalia](#); [Adeline E. Gaydosh](#)
Subject: Re: [External] Re: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726
Date: Monday, December 4, 2023 10:41:39 AM

December 4, 2023

Thank you for sending these two proposed rulemakings. They are scheduled for publication in the 12/16 issue of the *Pennsylvania Bulletin*.

Have a great day!

Adeline

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 10:27 AM
To: Bulletin <bulletin@palrb.us>
Subject: RE: [External] Re: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726

Of course. Jason.

Jason P. Porta | Legal Assistant II
Counsel Division
PA Department of State | Office of General Counsel
2601 North 3rd St
Harrisburg, PA 17105
Phone: 717.783.7200 | Fax: 717.787.0251
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From: Bulletin <bulletin@palrb.us>
Sent: Monday, December 4, 2023 10:25 AM
To: Porta, Jason <jporta@pa.gov>
Subject: Re: [External] Re: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726

No worries. May we have the word files for the preamble and annex, please?

Thanks in advance,

Adeline

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 10:17 AM
To: Bulletin <bulletin@palrb.us>
Subject: RE: [External] Re: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726

No, I had forgotten to attach it. My sincere apologies for any inconvenience. Jason.

Jason P. Porta | Legal Assistant II
Counsel Division
PA Department of State | Office of General Counsel
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Harrisburg, PA 17105
Phone: 717.783.7200 | Fax: 717.787.0251
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Independent Regulatory
Review Commission

December 4, 2023

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From: Bulletin <bulletin@palrb.us>
Sent: Monday, December 4, 2023 10:15 AM
To: Porta, Jason <jporta@pa.gov>
Subject: [External] Re: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726

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Hi Jason,

Is 16A-726 coming separately? I want to be sure before scheduling.

Thanks,
Adeline

From: Porta, Jason <jporta@pa.gov>
Sent: Monday, December 4, 2023 9:55 AM
To: Bulletin <bulletin@palrb.us>
Subject: DELIVERY NOTIFICATION- REGULATIONS 16A-4518 & 16A-726

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Please be advised that the State Board of Cosmetology and State Board of Massage Therapy are jointly delivering the below proposed rulemakings,

Thank you for your attention to this matter.

- 16A-4518 & 16A-726: Massage Therapy in Cosmetology or Esthetician Salons
 - Currently, Section 7.77 of the State Board of Cosmetology regulations (49 Pa.

Code, Chapter 7) prohibits any part of a salon from being used for any purposes other than the practice of cosmetology. Act 136 of 2014, amended the Beauty Culture Law (the Cosmetology Law) (63 P.S. §§ 507 – 527) by adding section 9.3 (63 P.S. § 515.3) allowing for the practice of massage therapy within the licensed square footage of a cosmetology or esthetician salon. Additionally, section 9.3 directs the State Board of Cosmetology and the State Board of Massage Therapy to jointly promulgate regulations to carry out the provisions of section 9.3. In response, the Boards have drafted and now propose the attached, jointly-promulgated rulemakings.

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Independent Regulatory
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