

## **Criminal Conviction Guidelines**

# **MASSAGE THERAPY**

### **Crimes against the person such as homicide, kidnapping and assault.**

#### *Reasons:*

1. Licensees provide a personal service and interact with clients who consist of adults, the elderly, the disabled and children and, potentially, their care givers, family, friends, and others. Persons who have a history of committing such crimes would pose a danger to the clients or others.
2. This occupation involves physical contact with clients and, potentially, close proximity to and interaction with their care givers, family, friends, and others, in private settings, to include clients' homes.
3. This occupation provides persons with this type of criminal history the opportunity to engage in further similar conduct.

### **Crimes involving prohibited sexual conduct.**

#### *Reasons:*

1. Section 455.152(a), Texas Occupations Code, states a person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense involving trafficking of persons, an offense involving sexual assault, an offense involving the solicitation or promotion of prostitution, or an offense involving compelling prostitution.
2. Section 455.251(b)(1), Texas Occupations Code, requires the Commission or the Executive Director to revoke the license of a person licensed as a massage therapist or massage therapy instructor if the person has been convicted of, has entered a plea of guilty or nolo contendere to, or has received deferred adjudication for an offense involving trafficking of persons, an offense involving the solicitation or promotion of prostitution, or an offense involving compelling prostitution.

3. Section 455.251(c)(2), Texas Occupations Code, requires the Commission or the Executive Director to revoke the license of a person licensed as a massage school or massage establishment if an offense that involved prostitution or another sexual offense, and which resulted in a conviction, plea of guilty or nolo contendere to, or grant of deferred adjudication for the offense, occurred on the premises of the school or establishment.
4. Licensees sometimes provide massages to partially or fully undressed customers in private rooms, which would provide a licensee or a manager/owner of a massage establishment with a predisposition to sell sexual services to customers an effective cover for selling sexual services to customers.
5. Licensees provide a personal service and interact with clients, who consist of adults, the elderly, the disabled and children and potentially their care givers, family, friends, and others. Persons who have a history of committing such crimes would pose a danger to the clients or others.
6. This occupation involves physical contact with clients and, potentially, close proximity to and interaction with their care givers, family, friends, and others, in private settings.
7. This occupation provides persons with this type of criminal history the opportunity to engage in further similar conduct.

### **Crimes involving human trafficking.**

#### *Reasons:*

Section 455.152(a), Texas Occupations Code, states a person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense involving trafficking of persons.

1. Section 455.251(b)(1), Texas Occupations Code, requires the Commission or the Executive Director to revoke the license of a person licensed as a massage therapist or massage therapy instructor if the person has been

convicted of, has entered a plea of guilty or nolo contendere to, or has received deferred adjudication for an offense involving trafficking of persons.

2. Victims of human trafficking often lack legal immigration status, money, and the ability to speak English fluently. Such persons are at particular risk of being compelled to provide sexual services or forced labor. Such persons are also at particular risk of becoming victims of sex slavery. A license under Chapter 455 could provide persons with a history of committing human trafficking offenses the opportunity to exploit these vulnerable populations.
3. Customers of massage therapy establishments often receive massages in private rooms closed off from public view. This arrangement could provide an effective cover for forced labor or the sale of sexual services by employees who are victims of human trafficking. Accordingly, massage therapy work would provide a licensee with a predisposition to exploit trafficked individuals an effective cover for their exploitation.
4. Access to a massage establishment would provide licensees with a predisposition for and experience in human trafficking the opportunity to engage in further similar conduct to exploit victims of human trafficking through forced labor or the sale of sexual services by the victim.

### **Crimes involving racketeering, organized crime, criminal influence, or money laundering.**

#### *Reasons:*

1. Persons with a predisposition and experience in committing crimes depriving others of money or property through a criminal enterprise, or have experience concealing the results of those crimes, would have the opportunity to engage in further similar conduct.

### **Crimes involving children, the elderly or the disabled as victims.**

#### *Reasons:*

1. Licensees interact with clients who consist of children, the elderly, and the disabled and, potentially, their care givers, family, friends, and others, some of

whom may be children, elderly or disabled, as a personal service provider and in a position of trust and authority. Persons who have a history of committing such crimes could exploit this position and would pose a danger to the clients or others.

2. This occupation involves physical contact with clients and, potentially, close proximity to their care givers, family, friends, and others, in private settings.
3. This occupation provides persons with this type of criminal history the opportunity to engage in further similar conduct.

### **Crimes against property such as theft or burglary.**

#### *Reasons:*

1. Licensees interact with adults, the elderly, the disabled and children in a service provider/client role, often in private settings. Licensees also interact with staff of massage therapy schools and massage therapy establishments. Persons who have a history of committing such crimes would pose a risk to the property of clients and others.
2. Licensees would have access to unsecured personal property of clients and their care givers, family, friends, and others.
3. This occupation provides persons with this type of criminal history the opportunity to engage in further similar conduct.

### **Crimes involving fraud or deceptive trade practices.**

#### *Reasons:*

1. Licensees interact with clients and their care givers, family, friends, and others, as a provider and in a position of trust and authority. Persons who have a history of committing such crimes could exploit this position and would pose a danger to the clients or others or a threat to their economic assets.
2. This occupation involves close proximity to and physical contact with clients and their care givers, family, friends, and others in private settings.
3. Licensees would have access to personal and confidential information of clients.

4. Licensees may be involved in the billing of clients and may be involved in filing insurance claims and government documents.
5. This occupation provides persons with this type of criminal history the opportunity to engage in further similar conduct.

**Crimes involving the possession, possession with intent to deliver, possession with intent to distribute, delivery, distribution or manufacture of drugs or other dangerous substances.**

*Reasons:*

1. Licensees interact with clients and their care givers, family, friends, and others, as a provider and in a position of trust and authority. Persons who have a history of committing such crimes could exploit this position and would pose a danger to the clients or others by providing them with drugs, controlled substances or other dangerous substances.
2. This occupation involves close proximity to and physical contact with clients and their care givers, family and friends in private settings.
3. Persons who have a history of drug possession or dealing could potentially have drugs or other dangerous substances in their systems which would make them a danger to themselves or others.
4. These occupations provide persons with this type of criminal history the opportunity to engage in further similar conduct.

**Crimes involving being under the influence of alcohol, drugs, or dangerous substances.**

*Reasons:*

1. Licensees interact with adults, the elderly, the disabled and children in a provider/client role. Persons who have a history of committing such crimes would pose a danger to the clients or others.
2. This occupation involves close proximity to and physical contact with clients and their care givers, family and friends in private settings.

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3. Persons with this type of criminal history could potentially have alcohol, drugs or other dangerous substances in their systems which would make them a danger to their clients or others.