

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 910

Short Title: Massage Therapy Practice.

(Public)

Sponsors: Representatives Stamey, Black, and Gamble.

Referred to: Judiciary III.

April 13, 1993

A BILL TO BE ENTITLED

AN ACT REGULATING THE PRACTICE OF MASSAGE THERAPY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 28.**

**"MASSAGE THERAPY PRACTICE.**

**"§ 90-410. Short title.**

This article shall be known as the North Carolina Massage Therapy Practice Act.

**"§ 90-411. Declaration of purpose.**

The General Assembly recognizes that the improper practice of massage therapy is potentially harmful to the public. Therefore, mandatory licensure of those engaged in the practice of massage therapy is necessary to ensure minimum standards of competency among massage therapists and to protect the health, safety, and welfare of the public.

**"§ 90-412. Definitions.**

In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) 'Board' means the North Carolina Board of Massage Therapy.
- (2) 'Massage establishment' means any business or establishment wherein massage therapy is practiced.
- (3) 'Massage therapy' means systems of activity applied to the soft tissues of the body for therapeutic, educational, or relaxing purposes. Such application may include, but is not limited to, pressure, friction,

1                   compression, stroking, rocking, tapping, kneading, and passive or  
2                   active stretching within the normal physiologic range of movement;  
3                   and adjunctive thereto, the external application of water, heat, cold,  
4                   lubricants, or other topical preparations, and mechanical devices which  
5                   mimic or enhance the actions possible by the hands. The terms  
6                   'therapy' and 'therapeutic massage' do not include the diagnosis of  
7                   illnesses or disease, medical procedure or the use of modalities for  
8                   which a license to practice medicine, chiropractic, physical therapy,  
9                   acupuncture, or podiatry is required by law, or the prescribing of  
10                   medications.

11                   (4) 'Massage therapist' means an individual licensed under this Chapter.

12 **"§ 90-413. License required.**

13                   (a) No person may practice or represent himself or herself as a massage therapist  
14 without first applying for and receiving from the Board of Massage Therapy a license to  
15 practice.

16                   (b) A person represents himself or herself as a massage therapist when the person  
17 adopts or uses any title or description including but not limited to 'massage therapist',  
18 'massage practitioner', 'massagist', 'masseur', 'masseuse', 'myotherapist', 'body therapist',  
19 'bodyworker', or any derivation of those terms that imply the practice of massage  
20 therapy.

21                   (c) It shall be unlawful to advertise the practice of massage therapy using the  
22 term 'massage' or any other term that implies a massage technique or method in any  
23 public or private publication or communication by a person not licensed by the Board as  
24 a massage therapist. Any person who holds a license to practice as a massage therapist  
25 in this State may use the title 'licensed massage therapist' and the abbreviation 'L.M.T.'  
26 No other person may assume such title or use such abbreviation or any other word,  
27 letters, signs, or figures to indicate that the person using the title is a licensed massage  
28 therapist. An establishment employing or contracting with licensed massage therapists  
29 may advertise the employment of such therapists.

30 **"§ 90-414. Exemptions.**

31                   (a) Nothing in this Chapter shall be construed to prohibit or restrict:

32                   (1) The practice of a profession by individuals who are licensed, certified,  
33 or registered under other laws of this State who are performing  
34 services within their authorized scope of practice.

35                   (2) The practice of massage therapy by an individual employed by the  
36 government of the United States while the individual is engaged in the  
37 performance of duties prescribed by the laws and regulations of the  
38 United States.

39                   (3) The practice of massage therapists duly licensed in another state,  
40 territory, or the District of Columbia when incidentally called into this  
41 State for consultation with a licensed massage therapist.

42                   (4) Students enrolled in Board-approved massage therapy programs, while  
43 engaged in completing a clinical requirement for graduation, which

1                   must be performed under the supervision of a licensed massage  
2                   therapist.

3           (5)   An individual giving massage to members of his or her immediate  
4           family.

5   **"§ 90-415. Board of Massage Therapy.**

6           (a)   There is created the North Carolina Board of Massage Therapy. It shall  
7   consist of seven members who are residents of this State and shall be appointed by the  
8   Governor. Five members shall be massage therapists with at least five years of massage  
9   therapy practice in North Carolina and who have been licensed under this Article. The  
10   remaining two members shall be members of the general public, who shall not have  
11   been licensed or have any financial interest, direct or indirect, in the profession  
12   regulated. Except as provided for initial appointments, the term of office of each  
13   member of the Board is three years, ending on June 30.

14          (b)   The terms of the initial Board members shall be staggered such that the terms  
15   of four members shall expire in 1994, and that the terms of the remaining three  
16   members shall expire in 1995. A member shall not be appointed to serve more than two  
17   consecutive terms.

18          (c)   The Board shall elect annually a chairman and such other officers as it deems  
19   necessary. The Board shall meet as often as necessary for the conduct of business but  
20   no less than twice a year, and shall establish procedures governing the calling, holding,  
21   and conducting of regular and special meetings. A majority of the Board shall  
22   constitute a quorum.

23          (d)   Each member of the Board shall receive per diem compensation and  
24   reimbursement for travel and subsistence as set forth in G.S. 93B-5.

25   **"§ 90-416. Powers and duties.**

26   The Board shall have the following general powers and duties:

27          (1)   Evaluate the qualifications of applicants for licensure under the  
28   Massage Therapy Practice Act.

29          (2)   Issue, renew, deny, suspend, or revoke licenses to practice massage  
30   therapy in this State, reprimand, or otherwise discipline licensed  
31   massage therapists.

32          (3)   Conduct investigations for the purpose of determining whether  
33   violations of this Article exist or constitute grounds for disciplinary  
34   action against licensed massage therapists.

35          (4)   Employ such professional, clerical, or special personnel necessary to  
36   carry out the provisions of this Article, and purchase or rent necessary  
37   office space, equipment, and supplies.

38          (5)   Establish reasonable fees for applications for examination, certificates  
39   of licensure and renewal, and other services provided by the Board.

40          (6)   Adopt, amend, or repeal any rules or regulations necessary to carry out  
41   the purposes of this Article and the duties and responsibilities of the  
42   Board.

43          (7)   Maintain a record of all proceedings and make available to certificate  
44   holders and other concerned parties an annual report of the Board.

- 1           (8) Adopt a seal containing the name of the Board for use on all  
2           certificates and official reports issued by it.
- 3           (9) Approve and/or establish requirements for massage therapy schools,  
4           instructors, education curriculum, examinations for licensure, and  
5           massage establishments.

6           The powers and duties enumerated above are granted for the purpose of enabling the  
7           Board to safeguard the public health, safety, and welfare against unqualified or  
8           incompetent practitioners of massage therapy, and are to be liberally construed to  
9           accomplish this objective.

10 **"§ 90-417. Custody and use of funds.**

11           All fees and other moneys collected and received by the Board shall be used for the  
12           purposes of implementing this Article.

13 **"§ 90-418. Expenses and fees.**

14           (a) All salaries, compensation, and expenses incurred or allowed for the purposes  
15           of this Article shall be paid by the Board exclusively out of the fees received by the  
16           Board as authorized by this Article, or funds received from other sources. In no case  
17           shall any salary, expense, or other obligations of the Board be charged against the State  
18           treasury.

19           (b) The schedule of fees shall not exceed the following:

- 20           (1) Application for examination           \$150.00  
21           (2) License fee           100.00  
22           (3) License renewal fee           75.00  
23           (4) Late renewal penalty           50.00  
24           (5) Reciprocity           50.00  
25           (6) Duplicate license           15.00  
26           (7) Provisional license           100.00

27 **"§ 90-419. Requirements for licensure.**

28           Upon application to the Board and the payment of the required fees, a massage  
29           therapist applicant may be licensed if the applicant meets the following qualifications:

- 30           (1) Has obtained a high school diploma or equivalent;  
31           (2) Is 19 years of age or older;  
32           (3) Is of good moral character as determined by the Board;  
33           (4) Has successfully completed a 500-hour course of supervised study by  
34           an approved massage therapy school or program, which shall include a  
35           curriculum as approved by the Board; and  
36           (5) Successfully completes an examination administered or approved by  
37           the Board.

38 **"§ 90-420. Reciprocity.**

39           Upon payment of an appropriate application fee, the Board may waive the  
40           examination, educational, or experience requirements and grant a license to any  
41           applicant who shall present proof of current certification or licensure as a massage  
42           therapist or practitioner of another state, the District of Columbia, or territory of the  
43           United States that requires standards for certification or licensure considered by the  
44           Board to be equivalent to the requirements for licensure in this State.

1       Upon receipt of an application for reciprocity, the Board shall contact each  
2 jurisdiction that has previously certified or licensed the applicant to determine whether  
3 or not there are disciplinary proceedings or unresolved complaints pending against the  
4 applicant. In the event a disciplinary proceeding or an unresolved complaint is pending,  
5 the applicant shall not be licensed until the proceeding or the complaint has been  
6 resolved in the applicant's favor.

7       Reciprocity shall not be granted if the state in which the applicant is licensed has not  
8 granted a similar reciprocity to massage therapists in this State.

9 **"§ 90-421. Provisional licensure.**

10       If an applicant does not meet the approved educational requirements or has not  
11 passed an approved examination at the time the Board is established, then for a period  
12 of one year after the establishment of the Board, the Board may waive the educational  
13 requirements and allow a provisional license to be obtained. The applicant must have a  
14 high school diploma or its equivalent, be 19 years of age or older, and pay the necessary  
15 fees. The applicant must also submit verification and documentation of at least 500  
16 hours of massage experience within a two-year period prior to the application and must  
17 be practicing in the State at the time the application is submitted. The following shall  
18 be submitted for consideration by the Board:

- 19           (1) Documentation proving the professional practice of massage therapy  
20 as defined in G.S. 90-412 as a primary source of income for two years  
21 preceding the application; and
- 22           (2) Three letters of reference from sources approved by the Board  
23 attesting to the sound moral character, professional qualifications, and  
24 competence of the applicant.

25 At the end of one year after the granting of the provisional license, the applicant must  
26 successfully pass the examination that has been approved by the Board to receive a  
27 license for massage therapy.

28 **"§ 90-422. Massage therapy schools.**

29       The Board shall establish rules for the approval of massage therapy schools. The  
30 Board shall approve massage therapy schools which meet its established criteria. Each  
31 school shall be registered with the Board and shall provide the Board with annual  
32 updates of any changes of curriculum content and a current list of all instructors. Each  
33 approved massage therapy school shall employ only instructors that have been approved  
34 by the Board.

35 **"§ 90-423. License renewal and continuing education.**

36       The license to practice massage therapy shall be renewed biennially. When  
37 renewing a license, each massage therapist shall submit to the Board evidence of the  
38 successful completion of at least 15 hours of study in the field of massage therapy  
39 during the immediately preceding two years as approved by the Board.

40 **"§ 90-424. Disciplinary action.**

41       The Board may deny, suspend, revoke, or refuse to license a massage therapist or  
42 applicant under the following grounds:

- 43           (1) The employment of fraud, deceit, or misrepresentation in obtaining or  
44 attempting to obtain a license, or the renewal thereof;

- 1           (2)   The use of drugs or intoxicating liquors to an extent which affects  
2           professional competency;  
3           (3)   Conviction of an offense under any municipal, State, or federal  
4           narcotic or controlled substance law until proof of rehabilitation can be  
5           established;  
6           (4)   Conviction of a felony or other public offense involving moral  
7           turpitude until proof of rehabilitation can be established;  
8           (5)   An adjudication of insanity or incompetency until proof of recovery  
9           from the condition can be established;  
10          (6)   Engaging in any act or practice violative of any of the provisions of  
11          this Article or of any of the rules and regulations adopted by the  
12          Board, or aiding, abetting, or assisting any other person in the violation  
13          of the same;  
14          (7)   The commission of an act or acts of malpractice, gross negligence, or  
15          incompetency in the practice of massage therapy;  
16          (8)   Practice as a licensed massage therapist without a valid certificate or  
17          renewal;  
18          (9)   Engaging in conduct that could result in harm or injury to the public;  
19          (10)  The employment of fraud, deceit, or misrepresentation when  
20          communicating with the general public, health care professionals, or  
21          other business professionals regarding massage therapy or its licensure  
22          requirements.

23    **"§ 90-425. Enforcement; injunctive relief.**

24          (a)   Any person not licensed pursuant to this Article or not otherwise exempted  
25          hereunder, who

- 26                  (1)   Engages in the practice of massage therapy;  
27                  (2)   Advertises, represents, or holds himself out as a massage therapist; or  
28                  (3)   Uses the title of massage therapist

29          shall be guilty of a misdemeanor, punishable by a fine, imprisonment, or both.

30          (b)   The Board may make application to superior court for an order enjoining a  
31          violation of this Article, and upon a showing by the Board that a person has violated or  
32          is about to violate this Article, the court may grant an injunction or restraining order, or  
33          take other appropriate action.

34    **"§ 90-426. Third-party reimbursement.**

35          Nothing in this Article shall be construed to require direct third-party reimbursement  
36          to persons licensed under this Article."

37                  Sec. 2. This act is effective upon ratification.