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Short Title: Massage Therapy Practice.

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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. 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 therapy establishment' means any business or establishment where massage therapy is practiced.

- 1 (3) 'Massage therapy' means systems of activity applied to the soft tissues
2 of the body for therapeutic, educational, or relaxation purposes. The
3 application may include (i) pressure, friction, stroking, rocking,
4 tapping, percussion, kneading, and passive or active stretching within
5 the normal physiologic range of movement; (ii) complementary
6 methods including the external application of water, heat, cold,
7 lubricants, or other topical preparations; and (iii) mechanical devices
8 which mimic or enhance the actions possible by the hands.
- 9 (4) 'Massage therapist' means a person licensed under this Article.
- 10 (5) 'Practice of massage therapy' or 'business of massage therapy' means
11 the application of massage therapy to any person for a fee or other
12 consideration. The practice does not include the diagnosis of illness or
13 disease, medical procedures, chiropractic adjustment, electrical
14 stimulation, ultrasound, prescription of medications, or the use of
15 modalities for which a license to practice medicine, chiropractic,
16 physical therapy, occupational therapy, acupuncture, or podiatry is
17 required by law.

18 **"§ 90-413. License required.**

19 (a) A person shall not practice or hold out to others as a massage therapist
20 without first applying for and receiving from the Board a license to engage in the
21 practice of massage therapy.

22 (b) A person holds out to others as a massage therapist when the person adopts or
23 uses any title or description including 'massage therapist,' 'massage practitioner,'
24 'massagist,' 'masseur,' 'masseuse,' 'myotherapist,' 'body therapist,' 'bodyworker,' or any
25 derivation of those terms that implies the practice of massage therapy.

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

35 **"§ 90-414. Exemptions.**

36 (a) Nothing in this Article shall be construed to prohibit or affect:

37 (1) The practice of a profession by persons who are licensed, certified, or
38 registered under other laws of this State and who are performing
39 services within their authorized scope of practice.

40 (2) The practice of massage therapy by an individual employed by the
41 government of the United States while the individual is engaged in the
42 performance of duties prescribed by the laws and regulations of the
43 United States.

- 1 (3) The practice of massage therapists duly licensed in another state,
2 territory, or the District of Columbia when incidentally called into this
3 State for consultation with a massage therapist.
- 4 (4) Students enrolled in Board-approved massage therapy programs, while
5 engaged in completing a clinical requirement for graduation that shall
6 be performed under the supervision of a massage therapist.
- 7 (5) A person giving massage to members of that person's immediate
8 family.
- 9 (6) A person employed by a hospital or other health care facility licensed
10 under Article 5 of Chapter 131E of the General Statutes, Part A of
11 Article 6 of Chapter 131E of the General Statutes, or Article 2 of
12 Chapter 122C of the General Statutes.
- 13 (7) The practice of massage therapists employed by nonprofit corporations
14 qualified under 26 U.S.C. § 501(c) that provide massage therapy as an
15 incidental service available only to dues-paying members and whose
16 primary business is not the practice of massage therapy.

17 **§ 90-415. Board of Massage Therapy.**

18 (a) The North Carolina Board of Massage Therapy is created. It shall consist of
19 seven members who are residents of this State and who shall be appointed by the
20 Governor. These members shall represent the diversity of disciplines within the
21 profession. Each member shall reside in a different Congressional district. Five
22 members shall be massage therapists with at least five years of massage therapy practice
23 in North Carolina and who have been licensed under this Article, except for the initial
24 appointees. The remaining two members shall be members of the general public, who
25 shall not have been licensed or have any financial interest, direct or indirect, in the
26 profession regulated. Except as provided for initial appointments, the term of office of
27 each member of the Board shall be three years, ending on June 30.

28 (b) The terms of the initial Board members shall be staggered so that the terms of
29 four members shall expire in 1994, and the terms of the remaining three members shall
30 expire in 1995. A member shall not be appointed to serve more than two consecutive
31 terms.

32 (c) The Board shall elect annually a chair and other officers as it deems
33 necessary. The Board shall meet as often as necessary for the conduct of business but
34 no less than twice a year. The Board shall establish procedures governing the calling,
35 holding, and conducting of regular and special meetings. A majority of the Board shall
36 constitute a quorum.

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

39 **§ 90-416. Powers and duties.**

40 The Board shall have the following powers and duties:

- 41 (1) Evaluate the qualifications of applicants for licensure as massage
42 therapists.
- 43 (2) Issue, renew, deny, suspend, or revoke licenses to practice massage
44 therapy in this State.

- 1 (3) Reprimand or otherwise discipline licensed massage therapists.
- 2 (4) Conduct investigations to determine whether violations of this Article
3 exist or constitute grounds for disciplinary action against licensed
4 massage therapists.
- 5 (5) Employ professional, clerical, or other special personnel necessary to
6 carry out the provisions of this Article; purchase or rent necessary
7 office space, equipment, and supplies.
- 8 (6) Establish reasonable fees for applications for examination, certificates
9 of licensure and renewal, and other services provided by the Board.
- 10 (7) Adopt, amend, or repeal any rules necessary to carry out the purposes
11 of this Article and the duties and responsibilities of the Board.
- 12 (8) Maintain a record of all proceedings and make available to certificate
13 holders and other concerned parties an annual report of the Board.
- 14 (9) Adopt a seal containing the name of the Board for use on all
15 certificates and official reports issued by it.
- 16 (10) Approve or establish requirements for massage therapy schools,
17 instructors, education curriculum, examinations for licensure, and
18 massage therapy establishments.

19 The powers and duties set out in this section are granted for the purpose of enabling
20 the Board to safeguard the public health, safety, and welfare against unqualified or
21 incompetent practitioners of massage therapy and are to be liberally construed to
22 accomplish this objective.

23 **"§ 90-417. Custody and use of funds.**

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

26 **"§ 90-418. Expenses and fees.**

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

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

- 33 (1) Application for examination \$150.00
- 34 (2) License fee 100.00
- 35 (3) License renewal fee 75.00
- 36 (4) Late renewal penalty 50.00
- 37 (5) Reciprocity 50.00
- 38 (6) Duplicate license 15.00
- 39 (7) Provisional license 100.00

40 **"§ 90-419. Requirements for licensure.**

41 Upon application to the Board and the payment of the required fees, an applicant
42 may be licensed as a massage therapist if the applicant meets all of the following
43 qualifications:

- 44 (1) Has obtained a high school diploma or equivalent.

- 1 (2) Is 18 years of age or older.
- 2 (3) Is of good moral character as determined by the Board.
- 3 (4) Has successfully completed a 500-hour course of supervised study by
4 an approved massage therapy school or program that shall include a
5 curriculum as approved by the Board.
- 6 (5) Successfully completes an examination administered or approved by
7 the Board.

8 **"§ 90-420. Reciprocity.**

9 (a) Upon payment of the appropriate application fee, the Board may waive the
10 examination, educational, or experience requirements and grant a license to any
11 applicant who shall present proof of current certification or licensure as a massage
12 therapist or practitioner of another state, the District of Columbia, or territory of the
13 United States that requires standards for certification or licensure considered by the
14 Board to be equivalent to the requirements for licensure in this State.

15 (b) Upon receipt of an application for reciprocity, the Board shall contact each
16 jurisdiction that has previously certified or licensed the applicant to determine whether
17 or not there are disciplinary proceedings or unresolved complaints pending against the
18 applicant. In the event a disciplinary proceeding or an unresolved complaint is pending,
19 the applicant shall not be licensed until the proceeding or the complaint has been
20 resolved in the applicant's favor.

21 (c) Reciprocity shall not be granted if the state in which the applicant is licensed
22 has not granted similar reciprocity to massage therapists in this State.

23 **"§ 90-421. Provisional licensure.**

24 If an applicant does not meet the approved educational requirements, then for a
25 period of one year after the establishment of the Board, the Board may waive the
26 educational requirements and allow a provisional license to be obtained. At the end of
27 one year after the granting of the provisional license, the applicant shall successfully
28 pass the examination that has been approved by the Board to receive a license to
29 practice massage therapy. The applicant for a provisional license shall meet the
30 requirements set forth in G.S. 90-419 (1) and (2) and submit all of the following for
31 consideration by the Board:

- 32 (1) Verification and documentation of at least 500 hours of massage
33 experience within a two-year period prior to application.
- 34 (2) Verification that the applicant has been practicing in the State at the
35 time the application is submitted.
- 36 (3) Documentation proving the professional practice of massage therapy
37 as defined in G.S. 90-412 as a primary source of income within two
38 years preceding the application.
- 39 (4) Three letters of reference from sources approved by the Board
40 attesting to the sound moral character, professional qualifications, and
41 competence of the applicant.

42 **"§ 90-422. Massage therapy schools.**

43 The Board shall establish rules for the approval of massage therapy schools. The
44 Board shall approve massage therapy schools that meet its established criteria. The

1 Board shall take into consideration schools and programs outside the State that satisfy
2 the educational standards as set forth in this Article. Each school shall be registered
3 with the Board and shall provide the Board with annual updates of any changes of
4 curriculum content and a current list of all instructors. Each approved massage therapy
5 school shall employ only instructors that have been approved by the Board.

6 **"§ 90-423. License renewal and continuing education.**

7 The license to practice massage therapy shall be renewed every two years. When
8 renewing a license, each massage therapist shall submit to the Board evidence of the
9 successful completion of at least 15 hours of study in the field of massage therapy
10 during the immediately preceding two years as approved by the Board.

11 **"§ 90-424. Disciplinary action.**

12 The Board may deny, suspend, revoke, or refuse to license a massage therapist or
13 applicant under any of the following grounds:

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

38 **"§ 90-425. Enforcement; injunctive relief.**

39 (a) It is unlawful for a person not licensed or exempted under this Article to
40 engage in any of the following:

- 41 (1) Practice massage therapy.
- 42 (2) Advertise, represent, or hold out to others as a massage therapist.
- 43 (3) Use the title of massage therapist.

1 (b) A person who violates subsection (a) of this section shall be guilty of a
2 general misdemeanor, punishable by a fine, imprisonment, or both.

3 (c) The Board may make application to superior court for an order enjoining a
4 violation of this Article. Upon a showing by the Board that a person has violated or is
5 about to violate this Article, the court may grant an injunction, restraining order, or take
6 other appropriate action.

7 **"§ 90-426. Third-party reimbursement.**

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

10 Sec. 2. The provisions of this act are severable, and if any provision of this
11 act is held invalid by a court of competent jurisdiction, the invalidity shall not affect
12 other provisions of the act that can be given effect without the invalid provision.

13 Sec. 3. This act becomes effective October 1, 1993, except that G.S. 90-425
14 becomes effective December 1, 1993, and applies to offenses occurring on or after that
15 date.