

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 910
Committee Substitute Favorable 4/29/93

Short Title: Massage Therapy Practice.

(Public)

Sponsors:

Referred to:

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 therapy 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. The

1 application may include, but is not limited to pressure, friction,
2 stroking, rocking, tapping, percussion, kneading and passive or active
3 stretching within the normal physiologic range of movement; and
4 complementary methods including the external application of water,
5 heat, cold, lubricants, or other topical preparations, and mechanical
6 devices which mimic or enhance the actions possible by the hands.

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

8 (5) 'Practice or business of massage therapy' means the application of
9 massage therapy to any person for a fee or other good and valuable
10 consideration. The practice does not include the diagnosis of illness or
11 disease, medical procedure, or the use of modalities for which a license
12 to practice medicine, chiropractic, physical therapy, acupuncture, or
13 podiatry is required by law, or the prescribing of medications.

14 **"§ 90-413. License required.**

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

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

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

32 **"§ 90-414. Exemptions.**

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

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

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

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

1 (4) Students enrolled in Board-approved massage therapy programs, while
2 engaged in completing a clinical requirement for graduation, which
3 must be performed under the supervision of a licensed massage
4 therapist.

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

7 **"§ 90-415. Board of Massage Therapy.**

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

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

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

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

27 **"§ 90-416. Powers and duties.**

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

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

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

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

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

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

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

- 1 (7) Maintain a record of all proceedings and make available to certificate
2 holders and other concerned parties an annual report of the Board.
3 (8) Adopt a seal containing the name of the Board for use on all
4 certificates and official reports issued by it.
5 (9) Approve or establish requirements for massage therapy schools,
6 instructors, education curriculum, examinations for licensure, and
7 massage therapy establishments.

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

12 **"§ 90-417. Custody and use of funds.**

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

15 **"§ 90-418. Expenses and fees.**

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

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

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

29 **"§ 90-419. Requirements for licensure.**

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

- 32 (1) Has obtained a high school diploma or equivalent;
33 (2) Is 18 years of age or older;
34 (3) Is of good moral character as determined by the Board;
35 (4) Has successfully completed a 500-hour course of supervised study by
36 an approved massage therapy school or program, which shall include a
37 curriculum as approved by the Board; and
38 (5) Successfully completes an examination administered or approved by
39 the Board.

40 **"§ 90-420. Reciprocity.**

41 Upon payment of an appropriate application fee, the Board may waive the
42 examination, educational, or experience requirements and grant a license to any
43 applicant who shall present proof of current certification or licensure as a massage
44 therapist or practitioner of another state, the District of Columbia, or territory of the

1 United States that requires standards for certification or licensure considered by the
2 Board to be equivalent to the requirements for licensure in this State.

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

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

11 **"§ 90-421. Provisional licensure.**

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

21 (1) Documentation proving the professional practice of massage therapy
22 as defined in G.S. 90-412 as a primary source of income for two years
23 preceding the application; and

24 (2) Three letters of reference from sources approved by the Board
25 attesting to the sound moral character, professional qualifications, and
26 competence of the applicant.

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

30 **"§ 90-422. Massage therapy schools.**

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

37 **"§ 90-423. License renewal and continuing education.**

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

42 **"§ 90-424. Disciplinary action.**

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

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

25 **"§ 90-425. Enforcement; injunctive relief.**

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

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

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

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

36 **"§ 90-426. Third-party reimbursement.**

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

39 Sec. 2. This act becomes effective October 1, 1993. G.S. 90-425 becomes
40 effective December 1, 1993, and applies to offenses occurring on or after that date.