

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 910
Committee Substitute Favorable 4/29/93
Third Edition Engrossed 5/27/93

Short Title: Massage Therapy Practice.

(Public)

Sponsors:

Referred to:

April 13, 1993

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A BILL TO BE ENTITLED

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AN ACT REGULATING THE PRACTICE OF MASSAGE THERAPY.

3

The General Assembly of North Carolina enacts:

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Section 1. Chapter 90 of the General Statutes is amended by adding a new

5

Article to read:

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"ARTICLE 28.

7

"MASSAGE THERAPY PRACTICE.

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"§ 90-410. Short title.

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

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"§ 90-411. Declaration of purpose.

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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.

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"§ 90-412. Definitions.

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

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(1) 'Board' means the North Carolina Board of Massage Therapy.

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(2) 'Massage therapy establishment' means any business or establishment wherein massage therapy is practiced.

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

17 **"§ 90-413. License required.**

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

21 (b) A person represents himself or herself as a massage therapist when the person
22 adopts or uses any title or description including but not limited to 'massage therapist',
23 'massage practitioner', 'massagist', 'masseur', 'masseuse', 'myotherapist', 'body therapist',
24 'bodyworker', or any derivation of those terms that imply the practice of massage
25 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 may assume such title or use such abbreviation or any other word,
32 letters, signs, or figures to indicate that the person using the title is a licensed massage
33 therapist. An establishment employing or contracting with licensed massage therapists
34 may advertise on behalf of therapists.

35 **"§ 90-414. Exemptions.**

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

37 (1) The practice of a profession by individuals who are licensed, certified,
38 or registered under other laws of this State 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 licensed massage therapist.
- 4 (4) Students enrolled in Board-approved massage therapy programs, while
5 engaged in completing a clinical requirement for graduation, which
6 must be performed under the supervision of a licensed massage
7 therapist.
- 8 (5) An individual giving massage to members of his or her immediate
9 family.
- 10 (6) Anyone employed by a hospital, nursing home, rest home, mental
11 retardation center, or rehabilitation facility operated or licensed by, or
12 registered with, an agency of the State of North Carolina or the U.S.
13 government.
- 14 (7) The practice of massage therapists employed by non-profit
15 corporations qualified under 26 U.S.C. 501(c) which provide massage
16 therapy as an incidental service available only to dues paying members
17 and whose primary business is not the practice of massage therapy.
- 18 (8) Anyone licensed as, or employed by a person who is licensed as, a
19 barber or cosmetologist from providing massage.

20 **"§ 90-415. Board of Massage Therapy.**

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

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

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

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

41 **"§ 90-416. Powers and duties.**

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

- 43 (1) Evaluate the qualifications of applicants for licensure under the
44 Massage Therapy Practice Act.

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

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

25 "**§ 90-417. Custody and use of funds.**"

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

28 "**§ 90-418. Expenses and fees.**"

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

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

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

42 "**§ 90-419. Requirements for licensure.**"

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

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

9 **"§ 90-420. Reciprocity.**

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

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

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

24 **"§ 90-421. Provisional licensure.**

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

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

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

43 **"§ 90-422. Massage therapy schools.**

1 The Board shall establish rules for the approval of massage therapy schools. The
2 Board shall approve massage therapy schools which meet its established criteria. Each
3 school shall be registered with the Board and shall provide the Board with annual
4 updates of any changes of curriculum content and a current list of all instructors. Each
5 approved massage therapy school shall employ only instructors that have been approved
6 by the Board.

7 **"§ 90-423. License renewal and continuing education.**

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

12 **"§ 90-424. Disciplinary action.**

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

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

39 **"§ 90-425. Enforcement; injunctive relief.**

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

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

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

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

6 **"§ 90-426. Third-party reimbursement.**

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

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