

Regular Session, 2012

HOUSE BILL NO. 923

BY REPRESENTATIVE PONTI

MASSAGE THERAPISTS: Provides with respect to the La. Massage Therapists and  
Massage Establishment Act

1 AN ACT

2 To amend and reenact R.S. 37:3552, 3553, 3554(A), (B), (D), (E), and (F), 3555, 3556,  
3 3557, 3558(A), (B), and (D), 3559, 3561, 3563, 3564, 3565, and 3566(B) and (C)  
4 and to repeal R.S. 35:3560, relative to massage therapy; to provide for definitions;  
5 to provide for applicability of the Louisiana Massage Therapists and Massage  
6 Establishment Act; to provide for exemptions; to provide for the Louisiana Board of  
7 Massage Therapy; to provide for membership of the board; to provide for the powers  
8 and duties of the board; to require licensure for persons performing massage therapy;  
9 to provide for licensure for massage establishments; to establish licensure  
10 requirements; to provide for an examination; to provide for licensing regulations; to  
11 provide for the expiration and renewal of licenses; to provide for inactive status; to  
12 provide for disciplinary actions; to regulate advertising as a massage therapist or a  
13 massage establishment; to provide for penalties; to provide for injunctions; and to  
14 provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 37:3552, 3553, 3554(A), (B), (D), (E), and (F), 3555, 3556, 3557,  
17 3558(A), (B), and (D), 3559, 3561, 3563, 3564, 3565, and 3566(B) and (C) are hereby  
18 amended and reenacted to read as follows:

19 §3552. Definitions

20 As used in this Chapter:

21 (1) "Advertise" or "advertising" means to publish, display, or disseminate  
22 promotional information and includes but is not limited to the issuance of any card,

1 sign, or direct mail, or in any newspaper, magazine, publication, or any  
2 announcement or display via any televised, computerized, electronic, or telephone  
3 networks, magnetic signs, or media. "Advertise" shall not include the following:

4 (a) Telephone directory information including white pages, yellow pages,  
5 and any Internet publication made by the phone directory company in which one is  
6 listed.

7 (b) Building signs identifying the location, unless the building sign contains  
8 promotional material.

9 (2) "Board" means the Louisiana Board of Massage Therapy.

10 ~~(2)~~ (3) "Department" means the Department of Health and Hospitals.

11 (4) "Inactive status" means a licensed massage therapist has, pursuant to the  
12 provisions of this Chapter, notified the board of intent to voluntarily cease activity  
13 as a massage therapist for a period of time not to exceed five years.

14 (5) "Lapsed license" means a board issued license which has not been  
15 renewed for a period of more than two years and the holder of the license has not  
16 taken inactive status.

17 (6) "Licensee" means any person or business that has a professional or  
18 establishment license issued by the board.

19 ~~(3)~~ (7) "Massage establishment" means any place of business in which  
20 massage therapy is practiced by a massage therapist that offers the practice of  
21 massage therapy and where the practice of massage therapy is conducted on the  
22 premises of the business. A place of business includes any office, clinic, facility, or  
23 other location where a person or persons engage in the practice of massage therapy.  
24 The residence of a therapist or an out call location which is not owned, rented, or  
25 leased by a massage therapist or massage establishment, shall not be considered a  
26 massage establishment, unless the location is advertised as the therapist's or  
27 establishment's place of business.

28 ~~(4)~~ (8) "Massage therapist" means an individual who practices or administers  
29 massage therapy to a patron of either gender for compensation. The term shall

1 include a therapeutic massage practitioner, massage technician, masseur, masseuse,  
2 or any derivation of those titles a person who engages in the practice of massage  
3 therapy for compensation.

4 (9) "Person" means an individual, corporation, association, or other legal  
5 entity.

6 (5) (10) "Massage Practice of massage therapy" means the manipulation of  
7 soft tissue for the purpose of maintaining good health and establishing and  
8 maintaining good physical condition. The practice of massage therapy shall include  
9 advertising or offering to engage in the practice of massage therapy and holding  
10 oneself out or designating oneself to the public as a massage therapist or massage  
11 establishment. The ~~term~~ practice of massage therapy shall include, but is not limited  
12 to effleurage (stroking), petrissage (kneading), tapotement (percussion),  
13 compression, vibration, friction, (active/passive range of motion), stretching, Shiatsu,  
14 ~~and~~ acupressure, reflexology, and Swedish massage either by hand, forearm, elbow,  
15 foot, or with mechanical appliances for the purpose of body massage. Massage  
16 therapy may include, but is not limited to the use of lubricants such as salts, powders,  
17 liquids, creams; (with the exception of prescriptive or medicinal creams), heat lamps,  
18 hot and cold stones, whirlpool, hot and cold ~~pack~~ packs, salt glow, body wraps, or  
19 steam cabinet baths. It shall not include electrotherapy, laser therapy, microwave,  
20 colonic therapy, or injection therapy, ~~or manipulation of the joints~~. Equivalent terms  
21 for massage therapy are massage, therapeutic massage, massage technology, ~~Shiatsu~~,  
22 body work, or any derivation of those terms. As used in this Chapter, the terms  
23 "therapy" and "therapeutic" shall not include diagnosis, the treatment of illness or  
24 disease, or any service or procedure for which a license to practice medicine,  
25 chiropractic, physical therapy, or podiatry is required by law.

26 (6) "~~Massage therapy instructor~~" means an individual who is licensed as a  
27 ~~massage therapist, who possesses credentials satisfactory to the board and who meets~~  
28 ~~criteria established by the board pursuant to rule.~~

1           ~~(7) "Person" means an individual, corporation, association, or other legal~~  
2           ~~entity.~~

3           (11) "Professional Massage Therapy Association" means a statewide  
4           organization or statewide chapter of an organization which meets all of the following  
5           criteria:

6           (a) Either directly, or through the parent organization, qualifies as a tax  
7           exempt nonprofit organization under 26 U.S.C. 501(c)(6).

8           (b) Within Louisiana, offers a voting membership to licensed massage  
9           therapists who practice or reside in Louisiana and who maintain their voting  
10           membership in good standing.

11           (c) Within Louisiana, is administered by a governing body composed of  
12           officers democratically elected by the organization's voting membership within  
13           Louisiana.

14           (12) "Writing" shall be a written communication transmitted either by United  
15           States mail or by electronic means such as e-mail.

16           §3553. Application of Chapter; exceptions and exemptions

17           A. This Chapter shall apply to any person ~~practicing as a massage therapist~~  
18           ~~or massage establishment engaging in the practice of massage therapy~~ within the  
19           state of Louisiana.

20           B.(1) This Chapter shall not apply to any services performed in hospitals  
21           licensed by the state.

22           (2) This Chapter shall also not apply to any of the following:

23           (a) Persons who are licensed, registered, or certified in another state,  
24           territory, the District of Columbia, or a foreign country when incidentally present in  
25           the state to teach a course of instruction related to massage and bodywork therapy  
26           as a continuing education course.

27           (b) Persons giving massage and bodywork to their immediate family without  
28           compensation.

1           (c) Persons incidentally present in the state to provide services as part of an  
2           emergency response team working in conjunction with relief officials during a  
3           disaster provided such persons are properly licensed in the state from which they  
4           originate.

5           C. Nothing in this Chapter shall be construed as preventing or restricting the  
6           practice ~~or activities~~ of any person licensed in this state under any other law from  
7           engaging in the profession or occupation for which he is licensed. ~~However, no~~  
8           ~~person shall in any way hold himself out or designate himself as a massage therapist~~  
9           ~~unless duly licensed by the board in accordance with this Chapter.~~

10          §3554. Louisiana Board of Massage Therapy; creation, membership, qualifications,  
11                 terms, vacancies, officers, meetings, reimbursement, liability

12           A.(1) ~~There is hereby created the~~ The Louisiana Board of Massage Therapy  
13           is hereby created within the Louisiana Department of Health and Hospitals. It shall  
14           be composed of seven members appointed by the governor. Five ~~licensed massage~~  
15           ~~therapists of the members~~ shall be appointed from a list of nominees submitted to the  
16           governor by professional massage therapy and bodywork associations. From the list  
17           of association nominees, three of the persons appointed shall be licensed massage  
18           therapists. Two lay members shall be appointed from a the list of nominees,  
19           ~~submitted to the governor by professional massage therapy associations. both of~~  
20           ~~whom shall be consumers who have never been nor are currently a licensed massage~~  
21           ~~therapist in the state. Two additional licensed massage therapists shall be appointed~~  
22           ~~to the board from a general list of names which are submitted for consideration by~~  
23           ~~other interested sources or individuals.~~

24           (2) ~~The~~ All massage therapists ~~initially~~ appointed to the board ~~from~~  
25           ~~nominations submitted to by~~ the governor ~~by professional massage therapy~~  
26           ~~associations~~ shall be qualified to be licensed and in good standing under this Chapter.  
27           The appointees shall have practiced massage therapy for at least three years, ~~and~~  
28           ~~shall be required to obtain a license within one hundred eighty days after~~  
29           ~~appointment to the board; thereafter, massage therapists appointed to the board shall~~

1 be licensed as massage therapists under this Chapter and shall have been in practice  
2 for a minimum of three years.

3 (3) ~~The initial members of the board shall be appointed by the governor not~~  
4 ~~later than October 1, 1992.~~

5 B. ~~Except as provided in Paragraph (1) of this Subsection, All~~ members of  
6 the board shall serve two-year terms. ~~However, no~~ No member shall serve more than  
7 three consecutive terms. ~~Board~~ For the purposes of staggering the board member  
8 terms, ~~are to be staggered as follows:~~

9 (1) ~~The~~ the governor shall appoint to the board three massage therapists and  
10 one lay person each to a term of one year beginning ~~October 1, 2002.~~ Thereafter,  
11 member in odd years ~~the governor shall appoint three massage therapists and one lay~~  
12 ~~person to the board:~~

13 (2) ~~In even years the governor shall appoint and~~ two massage therapists and  
14 one lay ~~person to the board~~ member in even numbered years.

15 \* \* \*

16 D. The board ~~shall hold its first meeting within thirty days after October 1,~~  
17 ~~1992, and~~ shall meet at least twice each year ~~thereafter.~~ Additional board meetings  
18 may be held at the call of the chairman or upon the written request of any three  
19 members of the board.

20 E. ~~The~~ Each year, the board shall ~~annually~~ elect a chairman, vice chairman,  
21 secretary, and treasurer from its membership and shall maintain records of the  
22 attendance of its members at board meetings.

23 F. Each member of the board shall serve with compensation, not to exceed  
24 fifty dollars per day, ~~and~~ consisting of at least three hours of board business,  
25 including travel time. Board members shall be reimbursed for travel and related  
26 expenses incurred, not to exceed those expenses authorized for reimbursement by the  
27 Department of Health and Hospitals, for each day that the member engages in board  
28 business.

29 \* \* \*

1 §3555. Powers and duties of the board

2 A. The board shall:

3 (1) ~~Prescribe application forms for examination, licensure, and registration~~  
4 ~~and assess and collect fees pursuant to R.S. 37:3562.~~ Regulate the practice of  
5 massage and bodywork in Louisiana by licensing massage therapists who meet the  
6 state's minimum standards of education. Among its functions, the board promulgates  
7 rules and regulations, issues and renews professional and establishment licenses,  
8 collects and assesses fees pursuant to R.S. 37:3562, inspects, investigates, and  
9 disciplines licensees, including both individuals and establishments, who violate the  
10 law, and imposes fines and penalties.

11 (2) Perform inspections and investigate persons who may be engaging in  
12 practices which violate provisions of this Chapter and impose fines and penalties.

13 (3) Maintain a complete record going back for a period of at least five years  
14 of all licensed massage therapists and annually prepare a roster of the names and  
15 addresses of all such licensees. A copy of this roster shall be made available to any  
16 person requesting it, upon payment of a fee set by the board in an amount sufficient  
17 to cover the costs of its publication and distribution.

18 (3) ~~Investigate persons who may be engaging in practices which violate~~  
19 ~~provisions of this Chapter and impose fines and penalties.~~

20 (4) Adopt and revise rules and regulations pursuant to the Administrative  
21 Procedure Act for the purpose of administering the provisions of this Chapter. ~~Such~~  
22 ~~rules and regulations shall include rules relating to the definition of unprofessional~~  
23 ~~conduct, as that term is further defined in R.S. 37:3563(A)(3).~~

24 (5) Issue declaratory rulings interpreting the scope of practice of massage  
25 therapy, as that term is further defined in ~~R.S. 37:3552(5)~~ R.S. 37:3552(10).

26 (6) ~~Have all other powers necessary and proper for the performance of its~~  
27 ~~duties.~~

1 B. The board may:

2 (1) Accept or deny entrance of any applicant applying for licensure ~~or~~  
3 ~~registration.~~

4 (2) Establish continuing education requirements for license renewal ~~and~~  
5 ~~criteria for certifying massage therapy instructors.~~

6 §3556. Licensure; qualifications

7 A.~~(1)~~ No person shall ~~act as or perform the duties of a massage therapist~~  
8 ~~unless he possesses~~ engage in the practice of massage therapy without a current  
9 license issued pursuant to this Chapter ~~or is~~ unless such person is exempt under the  
10 provisions of this Chapter. To receive a massage therapist license in the state of  
11 Louisiana, an applicant shall pay the application fee pursuant to R.S. 37:3562(B) and  
12 shall submit evidence satisfactory to the board of meeting the following  
13 requirements:

14 (1) Has satisfactorily completed a minimum five hundred hour in-class  
15 supervised course of studies pursuant to rules promulgated by the board in  
16 accordance with the Administrative Procedure Act.

17 (2) Has passed a national examination approved by the board under R.S.  
18 37:3557 within two years from the date the application is filed.

19 (3) Is a citizen or legal resident of the United States and has the ability to  
20 read, write, speak, and understand English fluently.

21 (4) Has not, within the five years preceding the date of the application, been  
22 convicted of a nonviolent felony.

23 (5) Has never been convicted of or pled nolo contendere to a violent felony  
24 or a criminal offense involving sexual misconduct.

25 (6) Has submitted to and cleared a background check.

26 ~~(2) A licensed massage therapist shall not perform massage therapy, whether~~  
27 ~~or not for compensation, at or for a sexually oriented business, as defined in R.S.~~  
28 ~~37:3558(D).~~

1           ~~(3) A licensed massage therapist shall not be directly employed by a person~~  
2           ~~licensed to practice medicine or osteopathy pursuant to R.S. 37:1261 et seq.~~

3           ~~B. A person desiring to be licensed as a massage therapist shall apply to the~~  
4           ~~board to take the examination provided for in R.S. 37:3557. To be eligible to take~~  
5           ~~the examination, an applicant shall pay the examination fee, except as otherwise~~  
6           ~~provided in R.S. 37:3562(B), and shall submit evidence satisfactory to the board that~~  
7           ~~he has met one of the following requirements:~~

8           ~~(1) Has satisfactorily completed massage therapy studies in a minimum five~~  
9           ~~hundred-hour supervised course of instruction. The course of instruction may be~~  
10           ~~provided by a proprietary massage therapy school licensed by the state Department~~  
11           ~~of Education. The minimum five hundred hours shall consist of three hundred~~  
12           ~~twenty-five hours dedicated to the study of basic massage therapy techniques and~~  
13           ~~clinical practicum-related modalities, one hundred twenty-five hours dedicated to the~~  
14           ~~study of anatomy and physiology, and an additional fifty hours of discretionary~~  
15           ~~related course work, including but not limited to hydrotherapy, business practices~~  
16           ~~and professional ethics, health and hygiene, and cardiopulmonary resuscitation~~  
17           ~~(CPR) and first aid.~~

18           ~~(2) Has been in the practice of massage therapy for a minimum of three~~  
19           ~~consecutive years prior to the date of application, provided that no person shall~~  
20           ~~qualify to take the examination pursuant to the provisions of this Paragraph after~~  
21           ~~March 1, 1998.~~

22           ~~(3) Holds a valid license as a physical therapist pursuant to R.S. 37:2401 et~~  
23           ~~seq.~~

24           ~~(4) Has been licensed or registered as a massage therapist in another state,~~  
25           ~~territory, commonwealth, or the District of Columbia which has and maintains~~  
26           ~~standards and requirements of practice and licensure or registration which~~  
27           ~~substantially conform to the requirements in force in this state, as determined by the~~  
28           ~~board.~~

1           The requirements set forth in R.S. 37:3556(A)(1) and 3556(A)(2) shall not  
2           apply to either of the following:

3           (1) Persons who have continuously held a license to engage in the practice  
4           of massage therapy issued by the board since March 1, 1998.

5           (2) Persons who hold a valid, current, and unexpired license or registration  
6           to engage in the practice of massage therapy in another state, territory,  
7           commonwealth, or the District of Columbia which has and maintains standards and  
8           requirements of practice and licensure or registration which substantially conform  
9           to the requirements in force in this state, as determined by the board.

10           C. After review of the evidence submitted, the board shall notify each  
11           applicant that his application and such evidence is ~~either satisfactory and accepted~~  
12           or ~~unsatisfactory and rejected~~. If an application is rejected, such notice shall state  
13           the reasons for the rejection.

14           D. The board shall issue a license to each person who meets the  
15           qualifications provided for in this Section upon payment of the professional license  
16           fee provided pursuant to R.S. 37:3562. The license, in the form of a Licensed  
17           Massage Therapist Identification Card (LMT-ID Card), grants all professional rights,  
18           honors, and privileges to the licensed massage therapist.

19           E. Each license granted shall have a validity period of one calendar year and  
20           shall have an expiration date as determined by administrative rules promulgated by  
21           the board.

22           §3557. Examination

23           A. Examination of applicants to be massage therapists shall be conducted at  
24           such times and places and under such supervision as the board determines by rule;  
25           ~~however, examinations shall be conducted at least twice in each calendar year. The~~  
26           ~~board shall give public notice and shall notify each person who has made satisfactory~~  
27           ~~application for examination of the date, time, and place of examination.~~

28           B. The board shall determine by rule the scope, form, and content of the  
29           examination, ~~which shall consist of both a written examination to test knowledge of~~

1 anatomy and physiology and a practical demonstration or oral interview to verify  
2 skills necessary for the practice of massage therapy.

3 ~~C. An applicant shall successfully pass the examination in order to be~~  
4 ~~eligible for licensure as a massage therapist. The board shall notify each applicant~~  
5 ~~of the results of the examination in writing. Any applicant who fails to pass the~~  
6 ~~examination and is, therefore, refused licensure may take the examination again upon~~  
7 ~~application and payment of an additional examination fee. No applicant shall be~~  
8 ~~allowed to take the examination more than twice within a two-year period.~~

9 §3558. Registration of massage Massage establishments

10 A. ~~A massage establishment shall register with the board as provided in the~~  
11 ~~following:~~

12 ~~(1) For physical addresses where only one massage therapist is practicing:~~

13 ~~(a) The professional massage license shall act as a registration certificate for~~  
14 ~~the establishment;~~

15 ~~(b) Separate professional licenses will be issued for each physical address~~  
16 ~~listed on the license application form or renewal application form; and~~

17 ~~(c) The professional license will cover all outcalls made from that physical~~  
18 ~~address by the licensee.~~

19 ~~(2) For physical addresses where more than one massage therapist is~~  
20 ~~practicing:~~

21 ~~(a) A separate massage establishment registration certificate is required;~~

22 ~~(b) The responsibility for obtaining a massage establishment registration~~  
23 ~~certificate shall belong to one of the following entities as it applies to the physical~~  
24 ~~location: sole proprietor, lessee, owner, partnership, corporation, cooperative,~~  
25 ~~association, or other legal entity; and~~

26 ~~(c) The establishment registration certificate shall cover all outcalls made~~  
27 ~~from the physical address by massage therapists listed on the establishment~~  
28 ~~registration.~~



1           §3559. ~~Applications, issuance of licenses and certificates of registration; referrals~~

2                     License regulations

3                     A. ~~Applications for licensure, registration, or renewal shall be on forms~~  
4                     ~~provided by the board and shall be accompanied by the fees specified in R.S.~~  
5                     ~~37:3562.~~ Each licensed massage therapist who works at a massage establishment  
6                     shall display his LMT-ID Card in plain view in an appropriate public manner. A  
7                     licensed massage therapist who is working outside of a massage establishment shall  
8                     have in his possession his LMT-ID Card and shall present it for review upon request  
9                     of a client or board representative.

10                    B. ~~The board shall issue a license to each person qualified as a massage~~  
11                    ~~therapist and a registration certificate to each qualified massage establishment. To~~  
12                    ~~be qualified for a license as a massage therapist, an applicant shall have successfully~~  
13                    ~~passed the examination provided for in R.S. 37:3557. Such a license or certificate~~  
14                    ~~grants all professional rights, honors, and privileges relating to the practice of~~  
15                    ~~massage therapy. Name or location changes to any license shall be submitted to the~~  
16                    board within thirty days of the change with appropriate fees.

17                    C. ~~Each licensed massage therapist shall display his license in an appropriate~~  
18                    ~~public manner as specified by the board. In addition, each massage establishment~~  
19                    ~~shall post in plain sight its certificate of registration and the license of each massage~~  
20                    ~~therapist who practices in the massage establishment. Any license shall be for the~~  
21                    sole use and benefit of the licensee or location for which it was issued and, as such,  
22                    is nontransferable.

23                    D. ~~A license or registration certificate is~~ All licenses are the property of the  
24                    board and shall be surrendered upon demand of the board.

25                    E. ~~Any license or massage establishment registration certificate shall be for~~  
26                    ~~the sole use and benefit of the licensee or location for whom it was issued and as~~  
27                    ~~such is nontransferable.~~





1           B. Any person who has been convicted of, entered a plea of nolo contendere  
2 to, or received deferred adjudication ~~to crimes or offenses involving~~ in connection  
3 with any criminal offense involving sexual misconduct ~~prostitution or sexual~~  
4 ~~offenses~~ shall be ineligible for licensure as a massage therapist, ~~or a massage therapy~~  
5 ~~instructor.~~

6           C. The board shall revoke the license of any person who is convicted of,  
7 enters a plea of nolo contendere to, or receives deferred adjudication ~~to a crime or~~  
8 ~~offense involving~~ in connection with any criminal offense involving sexual  
9 misconduct or prostitution ~~or other sexual offenses.~~

10           ~~E.~~ D. Any person who has been convicted of, entered a plea of nolo  
11 contendere to, or received deferred adjudication ~~to crimes or offenses involving~~ in  
12 connection with any criminal offense involving sexual misconduct or prostitution ~~or~~  
13 ~~sexual offenses~~ shall be ineligible for ~~registration~~ licensure as an owner or operator  
14 of a massage establishment. The board shall revoke the ~~registration~~ license of any  
15 person if the board determines that the establishment is a sexually oriented business,  
16 as defined in ~~R.S. 37:3558(D)~~, R.S. 37:3558(C), or that a crime or offense involving  
17 prostitution or other sexual offenses and resulting in a conviction, to which a plea of  
18 nolo contendere was entered, or deferred adjudication was received has occurred on  
19 the premises of the establishment since the date of the most recent license renewal,  
20 ~~of the registration certificate.~~

21 §3564. Regulation of advertising

22           A. A person ~~who~~ or an entity that does not hold a license as a massage  
23 therapist, ~~physical therapist, chiropractor, or athletic trainer~~ ~~or a certificate of~~  
24 ~~registration~~ or a license as a massage establishment, or any other profession listed  
25 in R.S. 37:3558(C), shall not use the words "massage", ~~"shiatsu", or "body work"~~,  
26 or any derivative or variation of the word "massage", including specific bodywork  
27 or massage modalities, on any sign or other form of advertising. Any advertisement  
28 by a massage therapist or a massage establishment shall contain the license ~~or~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 registration number of such therapist or establishment. Building signs with  
2 promotional material shall also include the professional or establishment number.

3 B. ~~Under no circumstances shall a~~ No sexually oriented business, as defined  
4 in ~~R.S. 37:3558(D); R.S. 37:3558(C), shall~~ use the word "massage", "shiatsu", or  
5 "body work", or any derivative or variation of the word massage, including specific  
6 bodywork or massage modalities, on any sign or other form of advertising.

7 §3565. Penalties

8 A. ~~Any~~ Violation of the provisions of this Chapter shall be considered a  
9 misdemeanor and any person, including the owner or operator of a massage  
10 establishment, ~~who violates the provisions of this Chapter shall be guilty of a~~  
11 ~~misdemeanor and,~~ upon conviction, shall be fined not less than one hundred nor  
12 more than one thousand dollars or imprisoned for not more than six months, or both.

13 B. A person convicted of a violation of the provisions of this Chapter shall  
14 additionally be ineligible for licensure as a massage therapist or ~~registration~~ as a  
15 massage establishment for a period of up to five years from the date of conviction.

16 §3566. Injunction

17 \* \* \*

18 B. In the suit for an injunction, the ~~board may demand of the defendant court~~  
19 may impose a penalty of fifty dollars per day for each violation, together with  
20 reasonable attorney fees; and the costs of court.

21 C. ~~The judgment for penalty;~~ An award of penalties, attorney fees, and court  
22 costs may be rendered in the same judgment in which the injunction is made  
23 absolute. ~~If the board brings an action against someone pursuant hereto and fails to~~  
24 ~~prove its case, then it shall be liable to such person for the payment of his attorney~~  
25 ~~fees and costs.~~ If the board is unsuccessful in obtaining injunctive relief, the court  
26 may award attorney fees and costs to the prevailing party.

27 Section 2. R.S. 37:3560 is hereby repealed in its entirety.

---

**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Ponti

HB No. 923

**Abstract:** Makes changes to the La. Massage Therapists and Massage Establishment Act.

Present law provides for definitions.

Proposed law amends the definitions of "massage establishment", "massage therapist", and "massage therapy" and adds definitions for "advertise", "inactive status", "lapsed license", "licensee", "person", "professional massage therapy association", and "writing".

Present law provides for the applicability of the La. Massage Therapists and Massage Establishment Act.

Present law does not apply to any services performed in hospitals licensed by the state.

Proposed law retains present law and adds an exemption for the following persons:

- (1) Persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally present in the state to teach a course of instruction related to massage and bodywork therapy as a continuing education course.
- (2) Persons giving massage and bodywork to their immediate family without compensation.
- (3) Persons incidentally present in the state to provide services as part of an emergency response team working in conjunction with relief officials during a disaster provided such persons are properly licensed in the state from which they originate.

Present law establishes the La. Board of Massage Therapists to be composed of seven members appointed by the governor as follows:

- (1) Five licensed massage therapists shall be appointed from a list of nominees submitted to the governor by professional massage therapy associations.
- (2) Two lay members shall be appointed from a list of nominees, submitted to the governor by professional massage therapy associations.

Proposed law establishes the La. Board of Massage Therapists to be composed of seven members appointed by the governor as follows:

- (1) Five of the members shall be appointed from a list of nominees submitted to the governor by professional massage therapy and bodyworks associations. From the list of association nominees, three of the persons appointed shall be licensed massage therapists. Two lay members shall be appointed from the list of nominees, both of whom shall be consumers who have never been nor are currently a licensed massage therapist in the state.
- (2) Two additional licensed massage therapists shall be appointed to the board from a general list of names which are submitted for consideration by other interested sources or individuals.

Present law provides for the qualifications, terms, vacancies, officers, reimbursement, and liability of the members of the board.

Proposed law retains present law and allows bodyworks associations and other interested sources or individuals to submit a list of nominees for membership on the board. Proposed law also makes technical changes and repeals outdated provisions.

Present law provides for compensation for the members of the board.

Proposed law retains present law and requires at least three hours of board business be attended to receive the per diem.

Present law provides for the powers and duties of the board.

Proposed law provides that the board shall regulate the practice of massage and bodywork in La. by licensing massage therapists who meet the state's minimum standards of education.

Proposed law further provides that, among its functions, the board promulgates rules and regulations, issues and renews professional and establishment licenses, collects and assesses fees, inspects, investigates, and disciplines licensees, including both individuals and establishments, who violate the law, and imposes fines and penalties.

Present law requires a person engaging in the practice of massage therapy to be licensed by the board as a massage therapist.

Proposed law retains present law and requires an applicant for a massage therapist license in the state of La. to the application fee and submit evidence satisfactory to the board of meeting the following requirements:

- (1) Has satisfactorily completed a minimum 500 hour in-class supervised course of studies.
- (2) Has passed a national examination approved by the board within two years from the date the application is filed.
- (3) Is a citizen or legal resident of the U.S. and has the ability to read, write, speak, and understand English fluently.
- (4) Has not, within the five years preceding the date of the application, been convicted of a nonviolent felony.
- (5) Has never been convicted of or pled nolo contendere to a violent felony or a criminal offense involving sexual misconduct.
- (6) Has submitted to and cleared a background check.

Present law provides for the examination of applicants to be massage therapists.

Proposed law provides that the timing and location of examinations for applicants, along with the scope, form, and content of the examination, shall be determined by administrative rules adopted by the board.

Present law provides for massage establishments.

Proposed law requires each person engaging in the practice of massage therapy at a massage establishment to be the holder of a Licensed Massage Therapist Identification Card (LMT-ID Card) which shall identify the therapist as being properly licensed and shall authorize the therapist to provide off-site massage services.

Proposed law further requires all locations where one or more persons are regularly engaged in the practice of massage to register with the board as a massage establishment and, if more than one person is engaged in the practice of massage at a location, to pay the establishment license fee.

Proposed law provides that obtaining a massage establishment license shall be the responsibility of the entity which controls the physical location where the services are provided, which entity may be a sole proprietor, lessee, owner, partnership, corporation, cooperative, association, or other legal entity.

Present law provides for applications for licensure by the board.

Proposed law exempts the following persons from the requirement to complete an approved course of study and to pass a national examination the following:

- (1) Persons who have continuously held a license to engage in the practice of massage therapy issued by the board since March 1, 1998.
- (2) Persons who hold a valid, current, and unexpired license or registration to engage in the practice of massage therapy in another state, territory, commonwealth, or the District of Columbia which has and maintains standards and requirements of practice and licensure or registration which substantially conform to the requirements in force in this state, as determined by the board.

Proposed law provides that each license granted shall have a validity period of one calendar year and shall have an expiration date as determined by administrative rules promulgated by the board.

Present law provides for the renewal and reinstatement of licenses and the continuing education requirements that must be met prior to renewal of a license.

Proposed law requires each licensed massage therapist who works at a massage establishment to display his LMT-ID Card in plain view in an appropriate public manner.

Proposed law further requires a licensed massage therapist who is working outside of a massage establishment to have in his possession his LMT-ID Card and to present it for review upon request of a client or board representative.

Proposed law provides that a licensee who chooses to adopt inactive status and cease activities as a massage therapist may submit an affidavit, along with the specified fee to apply for inactive status as required by rule of the board. If the licensee does not request to be placed on inactive status, his license shall expire if not timely renewed.

Present law sets forth the causes for the suspension of, revocation of, or refusal to renew or issue a license.

Proposed law sets forth the grounds for and methods of discipline of a licensee by the board.

Present law provides for penalties.

Proposed law provides that violations of proposed law are misdemeanors punishable by a fine of not less than \$100 nor more than \$1,000 or imprisonment for not more than six months, or both.

Proposed law provides that a person convicted of a violation of the provisions of proposed law shall additionally be ineligible for licensure as a massage therapist a massage establishment for a period of up to five years from the date of conviction.

Present law provides for injunctions.

Proposed law authorizes the board to bring an action for an injunction, together with reasonable attorney fees and court costs. Proposed law further provides that, if the board is unsuccessful in obtaining injunctive relief, the court may award attorney fees and costs to the prevailing party.

Present law allows an applicant who possesses the qualifications specified in present law to take the board examination to be granted a provisional license to engage in the practice of massage therapy until the date of the next examination and thereafter until the results of the examination are known.

Proposed law repeals present law.

Present law provides that an individual who has been issued a provisional license shall only practice massage therapy under the supervision of a licensed massage therapist.

Proposed law repeals present law.

Proposed law provides that the provisional license may, at the discretion of the board, be renewed once.

Proposed law repeals present law.

(Amends R.S. 37:3552, 3553, 3554(A), (B), (D), (E), and (F), 3555, 3556, 3557, 3558(A), (B), and (D), 3559, 3561, 3563, 3564, 3565, and 3566(B) and (C); Repeals R.S. 35:3560)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Made technical corrections.
2. Deleted proposed exemptions to the massage therapist licensure law for certain medical professions and restored the existing exemption for services performed in hospitals licensed by the state.
3. Specified that three of the persons appointed from the list of association nominees shall be licensed massage therapists.
4. Specified that an applicant for licensure as a massage therapist shall complete a minimum 500 hour in-class supervised course of study.
5. Specified that only locations where more than one person are regularly engaged in the practice of massage therapy shall pay the establishment licensure fee.
6. Deleted language regarding provisional licenses.
7. Specified that a person convicted of a violation of proposed law shall be ineligible for licensure as a massage therapist or massage establishment for a period up to five years from the date of conviction.