

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

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

DIGEST

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.
- (4) Physician offices, physical therapy facilities, chiropractic offices, or athletic training facilities, whether or not they employ, contract with, or rent to massage therapists, or institutions of secondary or higher education when massage therapy is practiced in connection with employment related to athletic teams.

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.

Proposed law provides that a course of study may utilize a credit hours equivalent as defined by the U.S. Dept. of Education in lieu of clock hours to measure student achievement.

Proposed law requires a course of study using credit hours to provide coursework consistent with the rules promulgated by the board including at least 500 hours of in-class supervised instruction.

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 or 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.

Effective January 1, 2013, except certain provisions of the Act shall become effective August 1, 2012.

(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. 37:3560)

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.

House Floor Amendments to the engrossed bill.

1. Made technical corrections.
2. Provided that the term "massage establishments" does not include physician offices, physical therapy facilities, chiropractic offices, or athletic training facilities, whether or not they employ, contract with, or rent to massage therapists, or institutions of secondary or higher education when massage therapy is practiced in connection with employment related to athletic teams.
3. Clarified that the term "practice of massage therapy" includes stretching activities as they pertain to massage therapy.
4. Restored existing language that was previously deleted in the definition of "practice of massage therapy".
5. Provided that nothing in proposed law shall prevent or restrict the practice of any person certified in this state from engaging in the profession or occupation for which he is certified.
6. Provided that a course of study may utilize a credit hours equivalent as defined by the U.S. Dept. of Education in lieu of clock hours to measure student achievement.
7. Required a course of study using credit hours to provide coursework consistent with the rules promulgated by the board including at least 500 hours of in-class supervised instruction.
8. Allowed a person holding a certificate to practice athletic training to use the words "massage" or "body work" or any derivative thereof in advertising.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the reengrossed bill

1. Provides effective dates.