

HOUSE BILL NO. 923

BY REPRESENTATIVE PONTI

AN ACT

To amend and reenact 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), to enact R.S. 37:3556.1, and to repeal R.S. 37:3560, relative to massage therapy; to provide for definitions; to provide for applicability of the Louisiana Massage Therapists and Massage Establishment Act; to provide for exemptions; to provide for the Louisiana Board of Massage Therapy; to provide for membership of the board; to provide for the powers and duties of the board; to require licensure for persons performing massage therapy; to provide for licensure for massage establishments; to establish licensure requirements; to provide for an examination; to provide for licensing regulations; to provide for the expiration and renewal of licenses; to provide for inactive status; to provide for disciplinary actions; to regulate advertising as a massage therapist or a massage establishment; to provide for penalties; to provide for injunctions; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. 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) are hereby amended and reenacted to read as follows:

§3552. Definitions

As used in this Chapter:

(1) "Advertise" or "advertising" means to publish, display, or disseminate promotional information and includes but is not limited to the issuance of any card, sign, or direct mail, or in any newspaper, magazine, publication, or any

1 announcement or display via any televised, computerized, electronic, or telephone
2 networks, magnetic signs, or media. "Advertise" shall not include the following:

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

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

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

9 ~~(2)~~ (3) "Department" means the Department of Health and Hospitals.

10 (4) "Inactive status" means the status in which a licensed massage therapist
11 has, pursuant to the provisions of this Chapter, notified the board of intent to
12 voluntarily cease activity as a massage therapist for a period of time not to exceed
13 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. The term "massage establishment" shall not
28 include physician offices, physical therapy facilities, chiropractic offices, or athletic
29 training facilities, whether or not they employ, contract with, or rent to massage

1 therapists, or institutions of secondary or higher education when massage therapy is
2 practiced in connection with employment related to athletic teams.

3 ~~(4) (8) "Massage therapist" means an individual who practices or administers~~
4 ~~massage therapy to a patron of either gender for compensation. The term shall~~
5 ~~include a therapeutic massage practitioner, massage technician, masseur, masseuse,~~
6 ~~or any derivation of those titles~~ a person who engages in the practice of massage
7 therapy for compensation.

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

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

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

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

6 (11) "Professional Massage Therapy Association" means a statewide
7 organization or statewide chapter of an organization which meets all of the following
8 criteria:

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

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

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

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

19 §3553. Application of Chapter; exceptions and exemptions

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

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

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

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

1 **(b) Persons giving massage and bodywork to their immediate family without**
2 **compensation.**

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

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

13 §3554. Louisiana Board of Massage Therapy; creation, membership, qualifications,
14 terms, vacancies, officers, meetings, reimbursement, liability

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

27 (2) ~~The~~ All massage therapists ~~initially~~ appointed to the board ~~from~~
28 ~~nominations submitted to by~~ the governor by ~~professional massage therapy~~
29 ~~associations~~ shall be ~~qualified to be~~ licensed and in good standing under this Chapter.
30 The appointees shall have practiced massage therapy for at least three years, ~~and~~

~~shall be required to obtain a license within one hundred eighty days after appointment to the board; thereafter, massage therapists appointed to the board shall be licensed as massage therapists under this Chapter and shall have been in practice for a minimum of three years.~~

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

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

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

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

* * *

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

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

F. Each member of the board shall serve with compensation, not to exceed fifty dollars per day, and consisting of at least three hours of board business, including travel time. Board members shall be reimbursed for travel and related

1 expenses incurred, not to exceed those expenses authorized for reimbursement by the
2 Department of Health and Hospitals, for each day that the member engages in board
3 business.

4 * * *

5 §3555. Powers and duties of the board

6 A. The board shall:

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

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

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

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

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

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

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

B. The board may:

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

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

§3556. Licensure; qualifications

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

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

(b) A course of study may utilize a credit hours equivalent as defined by the United States Department of Education in lieu of clock hours to measure student achievement. A course of study using credit hours shall provide coursework consistent with the rules promulgated by the board including at least five hundred hours of in-class supervised instruction.

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

(3) Is a citizen or legal resident of the United States 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.

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

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

4 ~~(2) A licensed massage therapist shall not perform massage therapy, whether~~
5 ~~or not for compensation, at or for a sexually oriented business, as defined in R.S.~~
6 ~~37:3558(D).~~

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

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

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

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

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

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

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

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

10 (2) Persons who hold a valid, current, and unexpired license or registration
11 to engage in the practice of massage therapy in another state, territory,
12 commonwealth, or the District of Columbia that has and maintains standards and
13 requirements of practice and licensure or registration that substantially conform to
14 the requirements in force in this state, as determined by the board.

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

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

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

27 §3557. Examination

28 A. Examination of applicants to be massage therapists shall be conducted at
29 such times and places and under such supervision as the board determines by rule,;
30 ~~however, examinations shall be conducted at least twice in each calendar year. The~~

1 ~~board shall give public notice and shall notify each person who has made satisfactory~~
2 ~~application for examination of the date, time, and place of examination.~~

3 B. ~~The board shall determine by rule the scope, form, and content of the~~
4 ~~examination, which shall consist of both a written examination to test knowledge of~~
5 ~~anatomy and physiology and a practical demonstration or oral interview to verify~~
6 ~~skills necessary for the practice of massage therapy.~~

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

13 §3558. ~~Registration of massage~~ Massage establishments

14 A. ~~A massage establishment shall register with the board as provided in the~~
15 ~~following:~~

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

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

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

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

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

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

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

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

Massage establishments shall be required to be licensed as follows:

(1) Each person engaging in the practice of massage therapy at a massage establishment shall 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.

(2) All locations where one or more persons are regularly engaged in the practice of massage therapy shall register with the board as a massage establishment. Additionally, all locations where more than one person is regularly engaged in the practice of massage therapy shall pay the establishment license fee.

(3) 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.

~~B.(1) A sexually oriented business, as defined in Subsection C of this Section, shall be ineligible for registration as a massage establishment and shall not operate as a massage establishment.~~

~~(2) The physical address where a sexually oriented business is determined to be in operation shall be ineligible to house a registered massage establishment for a period of not less than two years following such a determination.~~

A massage establishment shall employ or contract only licensed massage therapists to perform massage therapy.

* * *

~~D. A massage establishment shall employ only licensed massage therapists or provisionally licensed massage therapists to perform massage therapy. A sexually oriented business shall be ineligible for registration as a massage establishment and shall not operate as a massage establishment.~~

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. The license is nontransferable~~
21 ~~and shall be for the sole use and benefit of the licensee or location issued.~~

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

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

27 F. ~~Changes to any license or registration certificate must be submitted to the~~
28 ~~board within thirty days on board-approved forms with the appropriate fees, if~~
29 ~~applicable, as per rule.~~

30 * * *

~~§3561. License or registration renewal; reinstatement; continuing education requirements~~

A. Each license or registration certificate, except a provisional license, shall be renewed annually, on or before the anniversary its expiration date; by forwarding to the board submitting a renewal application form, accompanied by the payment of the renewal fee specified in R.S. 37:3562. Each licensee, upon making an application for renewal of a license, shall submit R.S. 37:3562, and providing evidence of satisfactory completion of that the licensee has completed continuing education requirements, as established by rule of the board.

B. Any license or registration certificate not renewed on or before its anniversary expiration date shall expire and all rights and privileges under the license shall cease.

C. ~~However, a~~ A person whose license has ~~lapsed~~ expired and who has ceased activities as a massage therapist for ~~not more than five years~~ less than twenty-four consecutive months may have his license reinstated upon payment of the renewal fee and the late fee specified in R.S. 37:3562, upon submission of a renewal application form and providing evidence satisfactory to the board that he has fulfilled continuing education requirements and passed the examination provided for in R.S. 37:3557.

D. A licensee who chooses to adopt inactive status and cease activities as a massage therapist may submit an affidavit, along with the specified fee in R.S. 37:3562 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.

E. If a person does not apply for inactive status and does not renew his license for a period of more than twenty-four consecutive months, the license shall be considered to have lapsed and in order to obtain a license, the person shall submit a new application which complies with all of the current requirements of this Chapter and the rules of the board as appropriate and shall pay the licensure application fee.

the original professional license fee, and any other fees applicable to a new application.

* * *

~~§3563. Causes for suspension, revocation, or failure to renew or issue a license~~

Grounds for discipline

A. The board may suspend, revoke, or refuse to issue or renew a license or registration certificate, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:

(1) Obtaining a license ~~or registration certificate~~ by means of fraud, misrepresentation, or concealment of material facts, including making false statements on an application or other document required by the board.

(2) Selling, bartering, or offering to sell or barter a license or registration certificate.

(3) Engaging in unprofessional conduct that has endangered or ~~which~~ that is likely to endanger the health, welfare, or safety of the public, as further defined by rules of the board.

(4) Conviction of a felony, or any crime arising out of or connected with the practice of massage therapy, unless such conviction was reversed on appeal.

(5) Conviction of any crime arising out of or connected with the practice of
massage therapy, unless such conviction was reversed on appeal.

(6) Violating or aiding and abetting in the violation of any provisions of this Chapter or the rules and regulations promulgated hereunder.

(6) (7) Failing to pass the examination for licensure comply with license or
renewal requirements.

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

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

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

16 §3564. Regulation of advertising

17 A. A person ~~who~~ or an entity that does not hold a license as a massage
18 therapist, physical therapist, or chiropractor, ~~or athletic trainer or~~ a certificate of
19 ~~registration to practice athletic training,~~ or a license as a massage establishment shall
20 not use the words "massage", "shiatsu", or "body work", or any derivative or
21 variation of the word "massage", including specific bodywork or massage modalities,
22 on any sign or other form of advertising. Any advertisement by a massage therapist
23 or a massage establishment shall contain the license ~~or registration~~ number of such
24 therapist or establishment. Building signs with promotional material shall also
25 include the professional or establishment number.

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

§3565. Penalties

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

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

§3566. Injunction

* * *

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

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

Section 2. R.S. 37:3556.1 is hereby enacted to read as follows:

§3556.1. Course of study; hours

A. Pursuant to the licensure requirements provided in R.S. 37:3556, a course of study may utilize a credit hours equivalent as defined by the United States Department of Education in lieu of clock hours to measure student achievement. A course of study using credit hours shall provide course work consistent with the rules promulgated by the board including at least five hundred hours of in-class supervised instruction.

B. The provisions of this Section shall terminate on January 1, 2013.

Section 3. R.S. 37:3560 is hereby repealed in its entirety.

1 Section 4. The provisions of Sections 1 and 3 of this Act shall become effective on
2 January 1, 2013.

3 Section 5. The provisions of Section 2 of this Act shall become effective upon
4 signature by the governor or, if not signed by the governor, upon expiration of the time for
5 bills to become law without signature by the governor, as provided by Article III, Section
6 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
7 by the legislature, this Section 2 of this Act shall become effective on the day following such
8 approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____