

Prior law provided for definitions.

New 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".

Prior law provided for the applicability of the La. Massage Therapists and Massage Establishment Act.

Prior law did not apply to any services performed in hospitals licensed by the state.

New law retains prior law and adds an exemption for the following:

- (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.

Prior law established the La. Board of Massage Therapists 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.

New 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.

Prior law provided for the qualifications, terms, vacancies, officers, reimbursement, and liability of the members of the board.

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 New law also makes technical changes and repeals outdated provisions.

Prior law provided for compensation for the members of the board.

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

Prior law required the board to do the following:

- (1) Prescribe application forms for examination, licensure, and registration and assess and collect fees.
- (2) Maintain a complete record of all licensed massage therapists and annually prepare a roster of the names and addresses of all such licensees.
- (3) Investigate persons who may be engaging in practices which violate provisions of prior law and impose fines and penalties.
- (4) Adopt and revise rules and regulations pursuant to the Administrative Procedure Act for the purpose of administering the provisions of prior law.
- (5) Issue declaratory rulings interpreting the scope of practice of massage therapy.
- (6) Have all other powers necessary and proper for the performance of its duties.

New law requires the board to:

- (1) Regulate the practice of massage and bodywork in La. by licensing massage therapists who meet the state's minimum standards of education.
- (2) Perform inspections and investigate persons who may be engaging in practices which violate provisions of new law and impose fines and penalties.
- (3) Maintain a complete record going back for a period of at least five years of all licensed massage therapists and annually prepare a roster of the names and addresses of all such licensees.
- (4) Adopt and revise rules and regulations pursuant to the Administrative Procedure Act for the purpose of administering the provisions of new law.
- (5) Issue declaratory rulings interpreting the scope of practice of massage therapy, as that term is further defined in new law.

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

New law retains prior law and requires an applicant for a massage therapist license in the state of La. to pay 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.

New 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.

New 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.

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

- (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.

Prior law provided for the examination of applicants to be massage therapists.

New 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.

Prior law provided for the registration of massage establishments.

New 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.

New 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.

New 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.

Prior law provided for applications for licensure by the board.

New 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.

New 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.

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

New 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.

Prior law provided that a person whose license has lapsed and who has ceased activities as a massage therapist for not more than five years may have his license reinstated upon payment of the renewal fee and the late fee and submission of a renewal application and evidence satisfactory to the board that he has fulfilled continuing education requirements and passed the required examination.

New law provides that a person whose license has expired and who has ceased activities as a massage therapist for less than twenty-four consecutive months may have his license reinstated upon payment of the renewal fee and the late fee and upon submission of a renewal application form and providing evidence satisfactory to the board that he has fulfilled continuing education requirements and passed the required examination.

New 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.

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

New law authorizes the board to suspend, revoke, or refuse to issue or renew a license after notice and opportunity for hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:

- (1) Obtaining a license 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.
- (3) Engaging in unprofessional conduct that has endangered or 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, 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 new law or the rules and regulations promulgated by the board.
- (7) Failing to comply with license or renewal requirements.

Prior law established penalties for violations of prior law.

New law provides that violations of new 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.

New law provides that a person convicted of a violation of the provisions of new 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.

Prior law authorized the board to file suit for an injunction.

New law authorizes the board to bring an action for an injunction, together with reasonable attorney fees and court costs. New 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.

New 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. New law requires a course of study using credit hours to provide course work consistent with the rules promulgated by the board including at least 500 hours of in-class supervised instruction. These provisions of new law shall terminate on Jan. 1, 2013.

Prior law allowed an applicant who possessed the qualifications specified in prior 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 were known.

New law repeals prior law.

Prior law provided that an individual who had been issued a provisional license shall only practice massage therapy under the supervision of a licensed massage therapist.

New law repeals prior law.

Prior law provided that the provisional license may, at the discretion of the board, be renewed once.

New law repeals prior law.

Effective January 1, 2013, except certain provisions of new law shall become effective upon signature of the governor (June 7, 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); Adds R.S. 37:3556.1; Repeals R.S. 37:3560)