

# SENATE BILL 817

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By: **Senators Forehand, Benson, Montgomery, and Stone**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

AN ACT concerning

### **State Board of Chiropractic and Massage Therapy Examiners – Practice of Chiropractic or Massage Therapy – Penalties and Exemptions**

FOR the purpose of prohibiting a person from knowingly recruiting, persuading, inducing, enticing, or encouraging another person to practice or attempt to practice massage therapy without a license or to represent to the public that the other person is authorized to practice massage therapy; altering certain penalties relating to the practice of chiropractic or massage therapy without a license or to representing to the public that a person is authorized to practice chiropractic or massage therapy; establishing certain penalties for a violation of certain provisions of this Act; prohibiting certain individuals from practicing, attempting to practice, or offering to perform certain techniques except under certain circumstances; requiring the State Board of Chiropractic and Massage Therapy Examiners to adopt certain regulations relating to certain exemptions; providing for a delayed effective date for certain provisions of this Act; altering a certain definition; and generally relating to regulation of the practice of chiropractic or massage therapy.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 3–506, 3–5A–01(f), and 3–5A–02

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

BY adding to

Article – Health Occupations

Section 3–501(c)

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

3–506.

(a) A person who practices or attempts to practice chiropractic or massage therapy without a license in violation of § 3–501 of this subtitle or represents to the public in violation of § 3–502 of this subtitle that the person is authorized to practice chiropractic or massage therapy is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding [~~\$2,000~~] **\$5,000** or imprisonment not exceeding [~~6 months~~] **1 YEAR OR BOTH**; or

(2) For [~~a~~] **EACH** subsequent offense, a fine not exceeding [~~\$6,000~~] **\$10,000** or imprisonment not exceeding [~~1 year~~] **5 YEARS OR BOTH**.

**(B) (1) A PERSON MAY NOT KNOWINGLY RECRUIT, PERSUADE, INDUCE, ENTICE, OR ENCOURAGE ANOTHER PERSON TO:**

**(I) PRACTICE OR ATTEMPT TO PRACTICE MASSAGE THERAPY WITHOUT A LICENSE IN VIOLATION OF § 3–501 OF THIS SUBTITLE; OR**

**(II) REPRESENT TO THE PUBLIC THAT THE PERSON IS AUTHORIZED TO PRACTICE MASSAGE THERAPY IN VIOLATION OF § 3–502 OF THIS SUBTITLE.**

**(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

**(I) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH; OR**

**(II) FOR EACH SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.**

**[(b)] (C)** A person who is convicted under the provisions of this section shall reimburse the Board for the direct costs of the Board, including court reporting services and expert witness fees, incurred as a result of a prosecution under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Health Occupations**

3–501.

**(C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PERFORM THE LAYING ON OF HANDS, CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL, TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY, ENERGETIC FIELD, OR ENERGY MERIDIANS OF THE HUMAN BODY, UNLESS THE INDIVIDUAL ACHIEVES, MAINTAINS, AND POSTS AN UNEXPIRED CERTIFICATE FROM:**

**(1) THE AMERICAN REFLEXOLOGY CERTIFICATION BOARD;**

**(2) THE INTERNATIONAL ASSOCIATION OF STRUCTURAL INTEGRATORS;**

**(3) THE NATIONAL CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE;**

**(4) THE NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE AND BODYWORK; OR**

**(5) A NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE BOARD FOR THIS PURPOSE.**

3–5A–01.

(f) (1) “Massage therapy” means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well-being.

(2) “Massage therapy” does not include:

(i) The diagnosis or treatment of illness, disease, or injury;

(ii) The adjustment, manipulation, or mobilization of any of the articulations of the osseous structures of the body or spine; or

(iii) Except as provided in paragraph (3) of this subsection, the laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy [or], energetic field, **OR ENERGY MERIDIANS** of the human body.

(3) “Massage therapy” includes the laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy [or], energetic field, **OR ENERGY MERIDIANS** of the human body if this practice includes use of the manual techniques set forth in paragraph (1) of this subsection.

(4) In paragraph (2)(iii) of this subsection, “fully clothed” does not require the wearing of footwear.

(5) The provisions of paragraph (2) of this subsection do not preclude the application of the modalities described in paragraph (1) of this subsection to an individual who has an injury.

3-5A-02.

The Board shall adopt regulations for the:

- (1) Licensure and practice of massage therapists; [and]
- (2) Registration and practice of massage practitioners; AND

**(3) EXEMPTION FROM THE REQUIREMENTS OF ITEMS (1) AND (2) OF THIS SECTION FOR AN INDIVIDUAL WHO PERFORMS THE LAYING ON OF HANDS, CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL, TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY, ENERGETIC FIELD, OR ENERGY MERIDIANS OF THE HUMAN BODY, PROVIDED THAT THE INDIVIDUAL ACHIEVES, MAINTAINS, AND POSTS AN UNEXPIRED CERTIFICATE FROM:**

**(I) THE AMERICAN REFLEXOLOGY CERTIFICATION BOARD;**

**(II) THE INTERNATIONAL ASSOCIATION OF STRUCTURAL INTEGRATORS;**

**(III) THE NATIONAL CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE;**

**(IV) THE NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE AND BODYWORK; OR**

**(v) A NATIONAL ACCREDITATION ORGANIZATION  
APPROVED BY THE BOARD FOR THIS PURPOSE.**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2015.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2014.