

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 238

(Delegate Taveras, *et al.*)

Health and Government Operations

Finance

Massage Therapy - Discipline

This bill repeals a provision of law that prohibits an individual from performing or offering to perform a massage on another individual for compensation unless the individual who performs or offers to perform a massage is a licensed massage therapist or registered massage practitioner and instead provides a six-month grace period to practice after a license or registration has expired. The bill also makes alterations relating to grounds for discipline, notice of disciplinary actions, judicial review of State Board of Massage Therapy Examiners orders, reinstatement of a license or registration, and the applicability of penalties regarding practicing massage therapy without a license or registration or misrepresentation. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The State Board of Massage Therapy Examiners can implement the bill's changes with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Discipline Procedures

The bill adds failure to comply with a board order to the list of disciplinary grounds for which the board may deny a license or registration, reprimand a licensee or registration

holder, place any licensee or registration holder on probation, or suspend or revoke a license or registration. The bill repeals the requirement that the board file notice of each revocation or suspension of a license or registration in the Maryland Register within 24 hours of revocation or suspension. The board may reinstate a suspended or revoked license only in accordance with the terms and conditions of the order of suspension, revocation, or reinstatement issued by the board. The bill specifies that current penalties for individuals convicted of practicing or attempting to practice massage therapy without a license or registration or misrepresentation do not apply to a person whose license or registration expired fewer than six months before the violation occurred. The bill also specifies that an order by the board may not be stayed pending judicial review, and the board may appeal a decision that reverses or modifies its order. However, the board may grant a stay of enforcement for its own orders in accordance with the Administrative Procedure Act (APA).

Current Law: Chapters 705 and 706 of 2022 phased out the registered massage practitioner credential. Until October 31, 2026, an individual may practice massage therapy in the State if the individual is either (1) licensed by the board or (2) registered by the board to practice massage therapy in a non-health care setting. Beginning November 1, 2026, an individual must be licensed by the board to practice massage therapy in the State.

“Practice massage therapy” means to engage professionally and for compensation in massage therapy. An individual is prohibited from performing a massage or offering to perform a massage on another individual for compensation unless the individual who performs or offers to perform the massage is a license massage therapist or registered massage practitioner.

Subject to specified hearing procedures, the board may deny a license or registration or reprimand, place on probation, suspend or revoke a license or registration if an individual violates any 1 of 22 grounds for disciplinary action. The board must file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a license or registration within 24 hours after the revocation or suspension. Any person aggrieved by a final decision of the board in a contested case, as defined in the APA, may not appeal to the Secretary of Health but may petition for judicial review. A person who practices or attempts to practice massage therapy without a license or registration or represents to the public that the person is authorized to practice massage therapy is guilty of a misdemeanor and on conviction is subject to specified penalties: for a first offense, a fine of up to \$2,000 or imprisonment for up to six months; for a subsequent offense, a fine of up to \$6,000 or imprisonment for up to one year.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 215 (Senators Ellis and Augustine) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2023
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