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1996 Regular Session

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(PRE-FILED)

SB 215/95 - EEA

CF 6lr1655

By: Delegates Owings, Hubbard, Menes, Frush, Rosapepe, Goldwater, Hammen, Klausmeier, Mohorovic, Hurson, and Perry Perry, Nathan-Pulliam, Stull, McIntosh, Barve, Bissett, Clagett, Vallario, Grosfeld, Mandel, Gordon, Cadden, Love, Bobo, and Elliott

Requested: September 20, 1995

Introduced and read first time: January 10, 1996

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 22, 1996

CHAPTER ____

1 AN ACT concerning

2 **State Board of ~~Nursing~~ Chiropractic Examiners - ~~Licensure~~ Certification of Massag 3**

Therapists

4 [TAG fto]FOR the purpose of requiring the State Board of ~~Nursing~~ Chiropractic Examiners to

5 adopt regulations for the ~~licensure~~ certification and practice of massage therapists;

6 defining certain terms; authorizing the Board of ~~Nursing~~ Chiropractic Examiners to

7 set certain fees; establishing the Massage Therapy Advisory Committee within the

8 Board of ~~Nursing~~ Chiropractic Examiners; specifying the powers and duties of the

9 Advisory Committee; requiring an individual to be ~~licensed~~ certified by the Board of

10 ~~Nursing~~ Chiropractic Examiners before the individual may practice massage

11 therapy; making certain exceptions; specifying the qualifications for a certain ~~license~~

12 certificate; authorizing the issuance and renewal of a certain ~~license~~ certificate;

13 establishing certain grounds for discipline; providing that this Act does not limit the

14 rights of certain individuals to practice certain occupations; prohibiting certain acts;

15 making certain exceptions; establishing certain penalties; providing for the

16 construction of this Act; requiring the initial members of the Massage Therapy

17 Advisory Committee to be eligible to be ~~licensed~~ certified under this Act; providing

18 for the effective date of this Act; and generally relating to the ~~licensure~~ certification

19 of individuals to practice massage therapy in this State.

20 BY adding to

21 Article - Health Occupations

22 Section ~~8-7A-01 through 8-7A-10~~ 3-5A-01 through 3-5A-11, inclusive, to be

23 under the new subtitle "Subtitle ~~7A~~ 5A, ~~Licensure~~ Certification of Massage

2

1 Therapists"
2 Annotated Code of Maryland
3 (1994 Replacement Volume and 1995 Supplement)

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

6 **Article - Health Occupations**

7 SUBTITLE ~~7A~~ 5A. ~~LICENSURE~~ CERTIFICATION OF MESSAGE THERAPISTS.

8 ~~8-7A-01~~. 3-5A-01.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) "BOARD" MEANS THE STATE BOARD OF ~~NURSING~~ CHIROPRACTIC
12 EXAMINERS.

13 (C) "~~LICENSE~~ CERTIFICATE" MEANS, UNLESS THE CONTEXT REQUIRES
14 OTHERWISE, A ~~LICENSE~~ CERTIFICATE ISSUED BY THE BOARD TO PRACTICE
15 MESSAGE THERAPY.

16 (D) "~~LICENSED~~ CERTIFIED MESSAGE THERAPIST" MEANS AN INDIVIDUAL
17 WHO IS ~~LICENSED~~ CERTIFIED BY THE BOARD TO PRACTICE MESSAGE THERAPY.

18 (E) "MESSAGE THERAPY ADVISORY COMMITTEE" MEANS THE COMMITTEE
19 ESTABLISHED UNDER ~~§ 8-7A-04~~ § 3-5A-04 OF THIS SUBTITLE.

20 (F) (1) "MESSAGE THERAPY" MEANS THE ~~MANIPULATION OF~~ USE OF
21 MANUAL TECHNIQUES ON SOFT TISSUES OF THE HUMAN BODY ~~BY MANUAL~~
22 ~~TECHNIQUES INCLUDING EFFLEURAGE, PETRISSAGE, INCLUDING EFFLEURAGE~~
23 ~~(STROKING), PETRISSAGE (KNEADING), TAPOTEMENT (TAPPING),~~ STRETCHING,
24 COMPRESSION, VIBRATION, AND FRICTION, WITH OR WITHOUT THE AID OF HEAT
25 LIMITED TO HOT PACKS AND HEATING PADS, COLD WATER, OR NONLEGEND
26 TOPICAL APPLICATIONS, FOR THE PURPOSE OF IMPROVING CIRCULATION,
27 ENHANCING MUSCLE RELAXATION, RELIEVING MUSCULAR PAIN, REDUCING
28 STRESS, OR PROMOTING HEALTH AND WELL-BEING.

29 (2) "MESSAGE THERAPY" DOES NOT INCLUDE:

30 (I) THE DIAGNOSIS OR TREATMENT OF ILLNESS OR DISEASE ~~OR~~
31 ~~INJURY UNLESS REFERRED BY A LICENSED PHYSICIAN;~~

32 (II) THE TREATMENT OF AN INJURY UNLESS REFERRED BY A
33 LICENSED PHYSICIAN ; OR

34 ~~(H) (III) ADJUSTING THE ADJUSTMENT, MANIPULATION, OR~~
35 MOBILIZATION OF ANY OF THE ARTICULATIONS OF THE OSSEOUS STRUCTURES OF
36 THE BODY OR SPINE.

3

1 (G) "PRACTICE MASSAGE THERAPY" MEANS TO ENGAGE PROFESSIONALLY
2 AND FOR COMPENSATION IN MASSAGE THERAPY WHILE REPRESENTING ONESELF
3 TO BE A ~~LICENSED~~ CERTIFIED MASSAGE THERAPIST.

4 ~~8-7A-02: 3-5A-02.~~

5 THE BOARD SHALL ADOPT REGULATIONS FOR THE ~~LICENSURE~~
6 CERTIFICATION AND PRACTICE OF MASSAGE THERAPISTS.

7 ~~8-7A-03: 3-5A-03.~~

8 (A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND
9 RENEWAL OF ~~LICENSES~~ CERTIFICATES AND THE OTHER SERVICES IT PROVIDES TO
10 MASSAGE THERAPISTS.

11 (2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO
12 APPROXIMATE THE COST OF MAINTAINING THE ~~LICENSURE~~ CERTIFICATION
13 PROGRAM, AND THE OTHER SERVICES PROVIDED TO MASSAGE THERAPISTS.

14 (B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE
15 PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER OF THE STATE.

16 (2) THE COMPTROLLER SHALL DISTRIBUTE ALL FEES TO THE STATE
17 BOARD OF ~~NURSING~~ CHIROPRACTIC EXAMINERS FUND ESTABLISHED UNDER ~~§ 8-206~~
18 § 3-206 OF THIS TITLE.

19 (C) THE FEES SHALL BE USED EXCLUSIVELY TO COVER THE ACTUAL
20 DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND
21 REGULATORY DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS
22 SUBTITLE.

23 ~~8-7A-04: 3-5A-04.~~

24 (A) (1) THERE IS A MASSAGE THERAPY ADVISORY COMMITTEE WITHIN THE
25 BOARD.

26 (2) THE COMMITTEE SHALL CONSIST OF ~~FIVE~~ SIX MEMBERS APPOINTED
27 BY THE BOARD.

28 (3) OF THE ~~FIVE~~ SIX MEMBERS:

29 (I) TWO SHALL BE ~~REGISTERED NURSES~~ LICENSED
30 CHIROPRACTORS WHO ARE ALSO ~~LICENSED~~ CERTIFIED MASSAGE THERAPISTS; ~~AND~~

31 (II) THREE SHALL BE ~~LICENSED~~ CERTIFIED MASSAGE THERAPISTS;
32 AND

33 (III) ONE SHALL BE A LICENSED CHIROPRACTOR WITH PHYSICAL
34 THERAPY PRIVILEGES.

35 (B) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN
36 THIS SUBTITLE, THE ADVISORY COMMITTEE SHALL:

37 (1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO
38 CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

4

1 (2) DEVELOP AND RECOMMEND TO THE BOARD A CODE OF ETHICS FOR
2 THE PRACTICE OF MASSAGE THERAPY FOR ADOPTION BY THE BOARD;

3 (3) DEVELOP AND RECOMMEND TO THE BOARD THE REQUIREMENTS
4 FOR ~~LICENSE~~ CERTIFICATION AS A MASSAGE THERAPIST;

5 (4) EVALUATE THE CREDENTIALS OF APPLICANTS AND RECOMMEND
6 TO THE BOARD ~~LICENSE~~ CERTIFICATION OF APPLICANTS WHO FULFILL THE
7 REQUIREMENTS FOR A ~~LICENSE~~ CERTIFICATE TO PRACTICE MASSAGE THERAPY;

8 (5) CONSIDER COMPLAINTS BROUGHT TO THE BOARD INVOLVING
9 ~~LICENSED~~ CERTIFIED MASSAGE THERAPISTS AND RECOMMEND TO THE BOARD THE
10 APPROPRIATE DISCIPLINARY ACTION;

11 (6) EVALUATE EDUCATION PROGRAMS IN MASSAGE THERAPY FOR
12 APPROVAL BY THE BOARD;

13 (7) KEEP A RECORD OF ITS PROCEEDINGS; AND

14 (8) SUBMIT AN ANNUAL REPORT TO THE BOARD.

15 ~~8-7A-05. 3-5A-05.~~

16 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN
17 INDIVIDUAL SHALL BE ~~LICENSED~~ CERTIFIED BY THE BOARD BEFORE THE
18 INDIVIDUAL MAY PRACTICE MASSAGE THERAPY IN THIS STATE.

19 (2) THIS SECTION DOES NOT APPLY TO:

20 (I) A STUDENT ENROLLED IN AN APPROVED EDUCATION
21 PROGRAM AS DETERMINED BY THE BOARD WHILE PRACTICING MASSAGE THERAPY
22 IN THAT PROGRAM; ~~OR~~

23 (II) AN INDIVIDUAL PERMITTED TO PRACTICE MASSAGE THERAPY
24 UNDER REGULATIONS ADOPTED BY THE BOARD, IF THE INDIVIDUAL:

25 1. OTHERWISE HAS QUALIFIED TO PRACTICE MASSAGE
26 THERAPY IN ANY OTHER STATE OR COUNTRY ~~AND THAT HAS SUBSTANTIALLY~~
27 SIMILAR REQUIREMENTS FOR AUTHORIZATION TO PRACTICE MASSAGE THERAPY
28 AND THE INDIVIDUAL IS IN THIS STATE FOR NO MORE THAN 7 DAYS; OR

29 2. HAS AN APPLICATION FOR A ~~LICENSE~~ CERTIFICATE
30 PENDING BEFORE THE BOARD BUT HAS NOT TAKEN THE EXAMINATION REQUIRED
31 UNDER THIS SECTION OR HAS TAKEN AN EXAMINATION UNDER THIS SECTION, BUT
32 THE RESULTS OF THE EXAMINATION ARE NOT YET KNOWN;

33 (III) A FAMILY MEMBER PRACTICING MASSAGE THERAPY ON
34 ANOTHER FAMILY MEMBER;

35 (IV) AN ATHLETIC TRAINER WHILE FUNCTIONING IN THE COURSE
36 OF THE ATHLETIC TRAINER'S PROFESSIONAL CAPACITY;

1 (V) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT
 2 TO PRACTICE MASSAGE THERAPY WHILE PRACTICING WITHIN THE SCOPE OF THE
 3 INDIVIDUAL'S EMPLOYMENT;

4 (VI) AN INDIVIDUAL WHO IS WORKING IN A FACILITY THAT
 5 PROVIDES HEALTH CLUB SERVICES FOR WHICH THE SELLER OF THE SERVICES HAS
 6 REGISTERED WITH THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE
 7 ATTORNEY GENERAL AS REQUIRED UNDER § 14-12B-02 OF THE COMMERCIAL LAW
 8 ARTICLE; OR

9 (VII) AN INDIVIDUAL WORKING IN A BEAUTY SALON FOR WHICH
 10 THE PERSON WHO OPERATES THE BEAUTY SALON HAS OBTAINED A PERMIT FROM
 11 THE STATE BOARD OF COSMETOLOGY AS REQUIRED UNDER § 5-501 OF THE
 12 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

13 (B) TO QUALIFY FOR A LICENSE CERTIFICATE, AN APPLICANT SHALL BE AN
 14 INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

15 (C) THE APPLICANT MUST BE OF GOOD MORAL CHARACTER.

16 (D) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

17 (E) AFTER JANUARY 1, ~~2000~~ 2002, THE APPLICANT SHALL HAVE
 18 SATISFACTORILY COMPLETED AT LEAST 60 CREDIT HOURS OF EDUCATION AT AN
 19 INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10-101 OF THE EDUCATION
 20 ARTICLE AND AS APPROVED BY THE BOARD IN CONSULTATION WITH THE
 21 MARYLAND HIGHER EDUCATION COMMISSION.

22 (F) THE APPLICANT ~~FOR LICENSURE AS A LICENSED MASSAGE THERAPIST~~
 23 SHALL:

24 (1) COMPLETE 500 HOURS OF EDUCATION IN A BOARD APPROVED
 25 PROGRAM FOR THE STUDY OF MASSAGE THERAPY THAT INCLUDES THE
 26 FOLLOWING AREAS OF CONTENT:

27 (I) ANATOMY AND PHYSIOLOGY;

28 (II) MASSAGE THEORY, TECHNIQUES, AND PRACTICE;

29 (III) CONTRAINDICATIONS TO MASSAGE THERAPY; AND

30 (IV) PROFESSIONAL ETHICS; AND

31 (2) PASS AN EXAMINATION APPROVED BY THE BOARD.

32 (G) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
 33 SUBSECTION, THE BOARD MAY WAIVE ANY OF THE QUALIFICATIONS REQUIRED
 34 FOR A LICENSE CERTIFICATE UNDER THIS SUBTITLE FOR AN APPLICANT WHO:

35 (I) PAYS THE APPLICATION FEE SET BY THE BOARD;

36 (II) PROVIDES EVIDENCE ACCEPTABLE TO THE BOARD THAT THE
 37 APPLICANT HAS PRACTICED MASSAGE THERAPY FOR AT LEAST A TOTAL OF 2 YEARS

6

1 AFTER OCTOBER 1, 1994 AND BEFORE OCTOBER 1, 1999 AND HAS PERFORMED AT
2 LEAST 300 PAID MASSAGE THERAPY SESSIONS; AND

3 (III) 1. COMPLETES A BOARD APPROVED PROGRAM IN THE
4 STUDY OF MASSAGE THERAPY; OR

5 2. PASSES AN EXAMINATION APPROVED BY THE BOARD.

6 (2) THE AUTHORITY OF THE BOARD TO GRANT A WAIVER UNDER THIS
7 SUBSECTION SHALL TERMINATE ON JANUARY 1, ~~2000~~ 2002.

8 (H) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD
9 MAY WAIVE ANY REQUIREMENT OF THIS SUBTITLE FOR AN APPLICANT WHO IS
10 REGISTERED, CERTIFIED, OR LICENSED TO PRACTICE MASSAGE THERAPY IN
11 ANOTHER STATE.

12 (2) THE BOARD MAY GRANT A WAIVER UNDER THIS SUBSECTION ONLY
13 IF THE APPLICANT:

14 (I) PAYS THE APPLICATION FEE SET BY THE BOARD; AND

15 (II) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

16 1. HAS COMPLETED EDUCATIONAL REQUIREMENTS THAT
17 THE BOARD DETERMINES TO BE EQUIVALENT TO THE BOARD APPROVED
18 EDUCATIONAL REQUIREMENTS IN THIS STATE; AND

19 2. AT THE TIME THE APPLICANT BECAME CERTIFIED,
20 REGISTERED, OR LICENSED IN THE OTHER STATE, PASSED IN THAT STATE OR ANY
21 OTHER STATE AN EXAMINATION THAT THE BOARD DETERMINES TO BE
22 EQUIVALENT TO THE EXAMINATION REQUIRED IN THIS STATE; AND

23 3. IS OF GOOD MORAL CHARACTER.

24 ~~8-7A-06.~~ 3-5A-06.

25 TO APPLY FOR A ~~LICENSE~~ CERTIFICATE, AN APPLICANT SHALL:

26 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
27 BOARD REQUIRES;

28 (2) SUBMIT TO THE BOARD EVIDENCE OF COMPLIANCE WITH THE
29 REQUIREMENTS OF ~~§ 8-7A-05~~ § 3-5A-05 OF THIS SUBTITLE; AND

30 (3) PAY THE APPLICATION FEE SET BY THE BOARD.

31 ~~8-7A-07.~~ 3-5A-07.

32 (A) A ~~LICENSE~~ CERTIFICATE EXPIRES ON THE 28TH DAY OF THE BIRTH
33 MONTH OF THE ~~LICENSEE~~ CERTIFICATE HOLDER, UNLESS THE ~~LICENSE~~
34 CERTIFICATE IS RENEWED FOR A ~~2-YEAR~~ 1-YEAR TERM AS PROVIDED IN THIS
35 SECTION.

36 (B) AT LEAST 1 MONTH BEFORE THE ~~LICENSE~~ CERTIFICATE EXPIRES, THE
37 BOARD SHALL SEND TO THE ~~LICENSE~~ CERTIFICATE HOLDER, BY FIRST CLASS MAIL

7

1 TO THE LAST KNOWN ADDRESS OF THE ~~LICENSE~~ CERTIFICATE HOLDER, A RENEWAL
2 NOTICE THAT STATES:

3 (1) THE DATE ON WHICH THE CURRENT ~~LICENSE~~ CERTIFICATE
4 EXPIRES;

5 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
6 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
7 THE ~~LICENSE~~ CERTIFICATE EXPIRES; AND

8 (3) THE AMOUNT OF THE RENEWAL FEE.

9 (C) BEFORE A ~~LICENSE~~ CERTIFICATE EXPIRES, THE ~~LICENSE~~ CERTIFICATE
10 HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE
11 ~~LICENSE~~ CERTIFICATE HOLDER:

12 (1) OTHERWISE IS ENTITLED TO BE ~~LICENSED~~ CERTIFIED;

13 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
14 THAT THE BOARD REQUIRES; AND

15 (3) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD.

16 (D) (1) EACH ~~LICENSE~~ CERTIFICATE HOLDER SHALL NOTIFY THE BOARD IN
17 WRITING OF ANY CHANGE IN THE NAME OR ADDRESS OF THE ~~LICENSE~~
18 CERTIFICATE HOLDER WITHIN 60 DAYS AFTER THE CHANGE OCCURRED.

19 (2) IF A ~~LICENSE~~ CERTIFICATE HOLDER FAILS TO NOTIFY THE BOARD
20 WITHIN THE TIME REQUIRED UNDER THIS SUBSECTION, SUBJECT TO THE HEARING
21 PROVISIONS OF ~~§ 8-317~~ § 3-315 OF THIS TITLE, THE BOARD MAY IMPOSE AN
22 ADMINISTRATIVE PENALTY OF \$100.

23 (E) THE BOARD SHALL RENEW THE ~~LICENSE~~ CERTIFICATE OF EACH ~~LICENSE~~
24 CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

25 ~~8-7A-08. 3-5A-08.~~

26 (A) SUBJECT TO THE HEARING PROVISIONS OF ~~§ 8-317~~ § 3-315 OF THIS TITLE,
27 THE BOARD MAY DENY A ~~LICENSE~~ CERTIFICATE TO ANY APPLICANT, REPRIMAND
28 ANY ~~LICENSE~~ CERTIFICATE HOLDER, PLACE ANY ~~LICENSE~~ CERTIFICATE HOLDER
29 ON PROBATION, OR SUSPEND OR REVOKE THE ~~LICENSE~~ CERTIFICATE OF A ~~LICENSE~~
30 CERTIFICATE HOLDER IF THE APPLICANT OR ~~LICENSE~~ CERTIFICATE HOLDER:

31 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
32 OBTAIN A ~~LICENSE~~ CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;

33 (2) FRAUDULENTLY OR DECEPTIVELY USES A ~~LICENSE~~ CERTIFICATE;

34 (3) IS DISCIPLINED BY A LICENSING, CERTIFYING, OR DISCIPLINARY
35 AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED
36 BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS
37 FOR DISCIPLINARY ACTION UNDER THIS SECTION;

8

1 (4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A
2 FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY
3 APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA
4 SET ASIDE;

5 (5) WILLFULLY AND KNOWINGLY:

6 (I) FILES A FALSE REPORT OR RECORD OF AN INDIVIDUAL
7 UNDER THE CARE OF THE ~~LICENSE~~ CERTIFICATE HOLDER; OR

8 (II) GIVES ANY FALSE OR MISLEADING INFORMATION ABOUT A
9 MATERIAL MATTER IN AN EMPLOYMENT APPLICATION;

10 (6) KNOWINGLY DOES ANY ACT THAT HAS BEEN DETERMINED BY THE
11 BOARD, IN ITS REGULATIONS, TO EXCEED THE SCOPE OF PRACTICE AUTHORIZED
12 TO THE INDIVIDUAL UNDER THIS SUBTITLE;

13 (7) PROVIDES PROFESSIONAL SERVICES WHILE:

14 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

15 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
16 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN
17 EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

18 (8) DOES AN ACT THAT IS INCONSISTENT WITH GENERALLY ACCEPTED
19 PROFESSIONAL STANDARDS IN THE PRACTICE OF MASSAGE THERAPY;

20 (9) IS NEGLIGENT IN THE PRACTICE OF MASSAGE THERAPY;

21 (10) IS PROFESSIONALLY INCOMPETENT;

22 (11) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE;

23 (12) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

24 (13) IS PHYSICALLY OR MENTALLY INCOMPETENT;

25 (14) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN
26 VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE;

27 (15) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST
28 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES
29 FOR WHICH THE ~~LICENSE~~ CERTIFICATE HOLDER IS QUALIFIED TO RENDER
30 BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

31 (16) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE
32 IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR
33 DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

34 (17) IS HABITUALLY INTOXICATED;

35 (18) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR
36 CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN ARTICLE 27 OF THE CODE;

9

1 (19) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION
2 CONDUCTED BY THE BOARD;

3 (20) ENGAGES IN CONDUCT THAT VIOLATES THE PROFESSIONAL CODE
4 OF ETHICS; OR

5 (21) KNOWINGLY DOES AN ACT THAT HAS BEEN DETERMINED BY THE
6 BOARD TO BE A VIOLATION OF THE BOARD'S REGULATIONS.

7 (B) IF, AFTER A HEARING UNDER ~~§ 8-347~~ § 3-315 OF THIS TITLE, THE BOARD
8 FINDS THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO
9 SUSPEND OR REVOKE A ~~LICENSE~~ CERTIFICATE TO PRACTICE MASSAGE THERAPY,
10 TO REPRIMAND A ~~LICENSE~~ CERTIFICATE HOLDER, OR PLACE A ~~LICENSE~~
11 CERTIFICATE HOLDER ON PROBATION, THE BOARD MAY IMPOSE A PENALTY NOT
12 EXCEEDING \$5,000 IN LIEU OF OR IN ADDITION TO SUSPENDING OR REVOKING THE
13 ~~LICENSE~~ CERTIFICATE, REPRIMANDING THE ~~LICENSE~~ CERTIFICATE HOLDER, OR
14 PLACING THE ~~LICENSE~~ CERTIFICATE HOLDER ON PROBATION.

15 (C) (1) AN INDIVIDUAL WHOSE ~~LICENSE~~ CERTIFICATE HAS BEEN
16 SUSPENDED OR REVOKED BY THE BOARD SHALL RETURN THE ~~LICENSE~~
17 CERTIFICATE TO THE BOARD.

18 (2) IF THE SUSPENDED OR REVOKED ~~LICENSE~~ CERTIFICATE HAS BEEN
19 LOST, THE INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT TO
20 THAT EFFECT.

21 (D) THE BOARD SHALL FILE A NOTICE FOR PUBLICATION IN THE EARLIEST
22 PUBLICATION OF THE MARYLAND REGISTER OF EACH REVOCATION OR
23 SUSPENSION OF A ~~LICENSE~~ CERTIFICATE UNDER THIS SECTION WITHIN 24 HOURS OF
24 THE REVOCATION OR SUSPENSION.

25 ~~8-7A-09. 3-5A-09.~~

26 THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE
27 OR ADVERTISE AN OCCUPATION THAT THE INDIVIDUAL IS OTHERWISE
28 AUTHORIZED TO PRACTICE UNDER THE MARYLAND ANNOTATED CODE.

29 ~~8-7A-10. 3-5A-10.~~

30 (A) ~~(1)~~ EXCEPT AS OTHERWISE PROVIDED IN ~~SUBSECTION (B) OF THIS~~
31 ~~SECTION~~ THIS SUBTITLE, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO
32 PRACTICE, OR OFFER TO PRACTICE MASSAGE THERAPY IN THIS STATE UNLESS
33 ~~LICENSED~~ CERTIFIED BY THE BOARD.

34 ~~(2)~~ (B) AN INDIVIDUAL WHO IS NOT ~~LICENSED~~ CERTIFIED AS A
35 ~~LICENSED~~ CERTIFIED MESSAGE THERAPIST UNDER THIS SUBTITLE MAY NOT
36 ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER
37 REPRESENTATION THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE
38 THERAPY, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS.

39 ~~(3)~~ (C) ANY INDIVIDUAL WHO VIOLATES A PROVISION OF THIS
40 SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION SHALL BE

10

1 SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT FOR NOT MORE THAN
2 1 YEAR, OR BOTH.

3 ~~(B) THE FOLLOWING INDIVIDUALS MAY PRACTICE MASSAGE THERAPY IN~~
4 ~~THIS STATE WITHOUT A LICENSE:~~

5 ~~(1) A STUDENT ENROLLED IN A BOARD APPROVED EDUCATION~~
6 ~~PROGRAM WHILE PRACTICING MASSAGE THERAPY IN THE PROGRAM;~~

7 ~~(2) A FAMILY MEMBER PRACTICING MASSAGE THERAPY ON ANOTHER~~
8 ~~FAMILY MEMBER;~~

9 ~~(3) AN ATHLETIC TRAINER WHILE FUNCTIONING IN THE COURSE OF~~
10 ~~THE ATHLETIC TRAINER'S PROFESSIONAL CAPACITY; AND~~

11 ~~(4) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT TO~~
12 ~~PRACTICE MASSAGE THERAPY WHILE PRACTICING WITHIN THE SCOPE OF THE~~
13 ~~INDIVIDUAL'S EMPLOYMENT.~~

14 ~~SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be~~
15 ~~construed to require a nonprofit health service plan, an insurer, health maintenance~~
16 ~~organization, or person acting as a third party administrator to reimburse a licensed~~
17 ~~massage therapist for any services rendered.~~

18 3-5A-11.

19 NOTWITHSTANDING THE FACT THAT THESE SERVICES ARE PROVIDED WITHIN
20 THE SCOPE OF THEIR LICENSED PRACTICE, NOTHING IN THIS SUBTITLE REQUIRES A
21 NONPROFIT HEALTH SERVICE PLAN, INSURER, HEALTH MAINTENANCE
22 ORGANIZATION, OR PERSON ACTING AS A THIRD PARTY ADMINISTRATOR TO
23 REIMBURSE A CERTIFIED MASSAGE THERAPIST FOR ANY SERVICES RENDERED.

24 ~~SECTION 3. 2.~~ AND BE IT FURTHER ENACTED, That the initial members of
25 the Massage Therapy Advisory Committee appointed in accordance with ~~§ 8-7A-04 §~~
26 ~~3-5A-04~~ of this Act shall be eligible to be certified under the provisions of ~~§ 8-7A-05 §~~
27 ~~3-5A-05~~ of this Act.

28 ~~SECTION 4. 3.~~ AND BE IT FURTHER ENACTED, That the changes to the
29 Health Occupations Article made by ~~§§ 8-7A-01, 8-7A-02, 8-7A-03, and 8-7A-04 §§~~
30 ~~3-5A-01 through 3-5A-04~~ shall take effect October 1, 1996, and the changes to the
31 Health Occupations Article made by ~~§§ 8-7A-05, 8-7A-06, 8-7A-07, 8-7A-08, 8-7A-09,~~
32 ~~and 8-7A-10 §§ 3-5A-05 through 3-5A-11~~ shall take effect January 1, 1998.

33 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
34 this Act, this Act shall take effect October 1, 1996.

