
By: **Delegate Hubbard**
Introduced and read first time: January 29, 1999
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 26, 1999

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations - ~~Message Therapists~~ State Board of Chiropractic**
3 **Examiners - Regulation of Massage**

4 FOR the purpose of ~~altering the definition of "practice massage therapy" to prevent~~
5 ~~the practice of massage therapy by uncertified persons~~ establishing a
6 classification of registered massage technicians; requiring an individual to
7 obtain a registration from the State Board of Chiropractic Examiners before the
8 individual may practice non-therapeutic massage therapy; requiring the Board
9 to adopt certain regulations; requiring the Board to set certain fees; requiring
10 the Massage Therapy Advisory Committee to perform certain duties; requiring
11 an applicant for registration to practice non-therapeutic massage therapy to
12 meet certain requirements; prohibiting registered massage technicians from
13 practicing in certain settings; requiring an applicant applying for registration to
14 perform certain duties; providing for the issuance and renewal of a registration;
15 providing that the Board may deny a registration to an applicant, reprimand
16 any registration holder, place any registration holder on probation, or suspend
17 or revoke a registration under certain circumstances; prohibiting certain
18 persons from advertising under certain circumstances; expanding the scope of
19 prohibited actions for persons practicing massage therapy without being
20 certified; prohibiting certain health care providers from referring patients to
21 certain individuals; prohibiting certified massage therapists from employing or
22 contracting with certain individuals; defining certain terms; making stylistic
23 and technical changes; and generally relating to the practice of massage therapy
24 ~~by uncertified persons~~ State Board of Chiropractic Examiners and the
25 regulation of massage.

26 BY repealing and reenacting, with amendments,
27 Article - Health Occupations

1 Section 3-5A-01 ~~and 3-5A-10~~ through 3-5A-11, inclusive
 2 Annotated Code of Maryland
 3 (1994 Replacement Volume and 1998 Supplement)

4 BY adding to
 5 Article - Health Occupations
 6 Section 3-5A-06 and 3-5A-12
 7 Annotated Code of Maryland
 8 (1994 Replacement Volume and 1998 Supplement)

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

11 **Article - Health Occupations**

12 3-5A-01.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) "Board" means the State Board of Chiropractic Examiners.

15 (c) "Certificate" means, unless the context requires otherwise, a certificate
 16 issued by the Board to practice massage therapy.

17 (d) "Certified massage therapist" means an individual who is certified by the
 18 Board to practice massage therapy.

19 (E) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-101(F) OF
 20 THE HEALTH - GENERAL ARTICLE.

21 ~~(E)~~ (F) "Massage Therapy Advisory Committee" means the Committee
 22 established under § 3-5A-04 of this subtitle.

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

30 (2) "Massage therapy" does not include:

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

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

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

4 ~~(g)~~ (H) "Practice massage therapy" means to engage professionally and for
5 compensation in massage therapy [while representing oneself to be a certified
6 massage therapist].

7 (I) "PRACTICE NON-THERAPEUTIC MASSAGE THERAPY" MEANS TO ENGAGE
8 PROFESSIONALLY AND FOR COMPENSATION IN MASSAGE THERAPY IN A SETTING
9 THAT IS NOT A HEALTH CARE FACILITY.

10 (J) "REGISTRATION" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
11 REGISTRATION ISSUED BY THE BOARD TO PRACTICE NON-THERAPEUTIC MASSAGE
12 THERAPY.

13 (K) "REGISTERED MASSAGE TECHNICIAN" MEANS AN INDIVIDUAL WHO IS
14 REGISTERED BY THE BOARD TO PRACTICE NON-THERAPEUTIC MASSAGE THERAPY.

15 3-5A-02.

16 The Board shall adopt regulations for the:

17 (1) [certification] CERTIFICATION and practice of massage therapists;

18 AND

19 (2) REGISTRATION AND PRACTICE OF MASSAGE TECHNICIANS.

20 3-5A-03.

21 (a) (1) The Board shall set reasonable fees for the issuance and renewal of
22 certificates AND REGISTRATIONS and the other services it provides to massage
23 therapists.

24 (2) The fees charged shall be set so as to produce funds to approximate
25 the cost of maintaining the certification program, REGISTRATION PROGRAM, and
26 the other services provided to massage therapists.

27 (b) (1) The Board shall pay all fees collected under the provisions of this
28 subtitle to the Comptroller of the State.

29 (2) The Comptroller shall distribute all fees to the State Board of
30 Chiropractic Examiners Fund established under § 3-206 of this title.

31 (c) The fees shall be used exclusively to cover the actual documented direct
32 and indirect costs of fulfilling the statutory and regulatory duties of the Board as
33 provided by the provisions of this subtitle.

34 3-5A-04.

35 (a) (1) There is a Massage Therapy Advisory Committee within the Board.

- 1 (2) The Committee shall consist of six members appointed by the Board.
- 2 (3) Of the six members:
- 3 (i) Two shall be licensed chiropractors; and
- 4 (ii) Four shall be certified massage therapists.
- 5 (b) In addition to the powers and duties set forth elsewhere in this subtitle,
6 the Advisory Committee shall:
- 7 (1) Develop and recommend to the Board regulations to carry out the
8 provisions of this subtitle;
- 9 (2) Develop and recommend to the Board a code of ethics for the practice
10 of massage therapy for adoption by the Board;
- 11 (3) Develop and recommend to the Board the requirements for:
- 12 (I) [certification] CERTIFICATION as a massage therapist; AND
- 13 (II) REGISTRATION AS A MASSAGE TECHNICIAN;
- 14 (4) Evaluate the credentials of applicants and recommend to the Board
15 certification of applicants who fulfill the requirements for:
- 16 (I) [a] A certificate to practice massage therapy; OR
- 17 (II) A REGISTRATION TO PRACTICE NON-THERAPEUTIC MASSAGE
18 THERAPY;
- 19 (5) Consider complaints brought to the Board involving certified
20 massage therapists OR REGISTERED MASSAGE TECHNICIANS and recommend to the
21 Board the appropriate disciplinary action;
- 22 (6) Evaluate education programs in massage therapy for approval by the
23 Board;
- 24 (7) Keep a record of its proceedings; and
- 25 (8) Submit an annual report to the Board.
- 26 3-5A-05.
- 27 (a) (1) Except as otherwise provided in this subtitle, an individual shall be:
- 28 (I) [certified] CERTIFIED by the Board before the individual may
29 practice massage therapy in this State; OR
- 30 (II) REGISTERED BY THE BOARD BEFORE THE INDIVIDUAL MAY
31 PRACTICE NON-THERAPEUTIC MASSAGE THERAPY IN THIS STATE.

- 1 (2) This section does not apply to:
- 2 (i) A student enrolled in an approved education program as
3 determined by the Board while practicing massage therapy in that program;
- 4 (ii) An individual permitted to practice massage therapy under
5 regulations adopted by the Board, if the individual:
- 6 1. Otherwise has qualified to practice massage therapy in
7 any other state or country that has substantially similar requirements for
8 authorization to practice massage therapy and the individual is in this State for no
9 more than 7 days; or
- 10 2. Has an application for a certificate pending before the
11 Board but has not taken the examination required under this section or has taken an
12 examination under this section, but the results of the examination are not yet known;
- 13 (iii) A family member practicing massage therapy on another family
14 member;
- 15 (iv) An athletic trainer while functioning in the course of the
16 athletic trainer's professional capacity;
- 17 (v) An individual employed by the federal government to practice
18 massage therapy while practicing within the scope of the individual's employment;
- 19 (vi) An individual who is working in a facility that provides health
20 club services for which the seller of the services has registered with the Consumer
21 Protection Division of the Office of the Attorney General as required under §
22 14-12B-02 of the Commercial Law Article; or
- 23 (vii) An individual working in a beauty salon for which the person
24 who operates the beauty salon has obtained a permit from the State Board of
25 Cosmetology as required under § 5-501 of the Business Occupations and Professions
26 Article.
- 27 (b) To qualify for a certificate, an applicant shall be an individual who: [meets
28 the requirements of this section.
- 29 (c)] (1) [The applicant must be of] IS OF good moral [character.]
30 CHARACTER;
- 31 (d)] (2) [The applicant must be at] IS AT least 18 years [old.] OLD;
- 32 (e)] (3) After January 1, 2002, [the applicant shall have] HAS satisfactorily
33 completed at least 60 credit hours of education at an institution of higher education as
34 defined in § 10-101 of the Education Article and as approved by the Board and the
35 Maryland Higher Education [Commission.] COMMISSION;
- 36 (f)] (4) [The applicant shall:

1 (1) ~~Complete~~ HAS COMPLETED 500 hours of education in a Board
 2 approved program for the study of massage therapy that includes the following areas
 3 of content:

- 4 (i) Anatomy and physiology;
 5 (ii) Massage theory, techniques, and practice;
 6 (iii) Contraindications to massage therapy; and
 7 (iv) Professional ethics; and

8 ~~[(2)]~~ (5) [Pass] HAS PASSED an examination approved by the Board.

9 (C) TO QUALIFY FOR REGISTRATION, AN APPLICANT SHALL BE AN
 10 INDIVIDUAL WHO:

- 11 (1) IS OF GOOD MORAL CHARACTER;
 12 (2) IS AT LEAST 18 YEARS OLD;
 13 (3) HAS COMPLETED 500 HOURS OF EDUCATION IN A BOARD APPROVED
 14 PROGRAM FOR THE STUDY OF MASSAGE THERAPY THAT INCLUDES THE FOLLOWING
 15 AREAS OF CONTENT:

- 16 (I) ANATOMY AND PHYSIOLOGY;
 17 (II) MASSAGE THEORY, TECHNIQUES, AND PRACTICE;
 18 (III) CONTRAINDICATIONS TO MASSAGE THERAPY; AND
 19 (IV) PROFESSIONAL ETHICS; AND
 20 (4) HAS PASSED AN EXAMINATION APPROVED BY THE BOARD.

21 ~~[(g)]~~ (D) (1) Subject to the provisions of paragraph (2) of this subsection, the
 22 Board may waive any of the qualifications required for a certificate under this
 23 subtitle for an applicant who:

- 24 (i) Pays the application fee set by the Board;
 25 (ii) Provides evidence acceptable to the Board that the applicant
 26 has practiced massage therapy for at least a total of 2 years after October 1, 1994 and
 27 before October 1, 1999 and has performed at least 300 paid massage therapy sessions;
 28 and
 29 (iii) 1. Completes a Board approved program in the study of
 30 massage therapy; or
 31 2. Passes an examination approved by the Board.

1 (2) The authority of the Board to grant a waiver under this subsection
 2 shall terminate on January 1, 2002.

3 [(h)] (E) (1) Subject to the provisions of this subsection, the Board may
 4 waive any requirement of this subtitle for an applicant who is registered, certified, or
 5 licensed to practice massage therapy in another state.

6 (2) The Board may grant a waiver under this subsection only if the
 7 applicant:

8 (i) Pays the application fee set by the Board; and

9 (ii) Provides adequate evidence that the applicant:

10 1. Has completed educational requirements that the Board
 11 determines to be equivalent to the Board approved educational requirements in this
 12 State;

13 2. At the time the applicant became certified, registered, or
 14 licensed in the other state, passed in that state or any other state an examination that
 15 the Board determines to be equivalent to the examination required in this State; and

16 3. Is of good moral character.

17 3-5A-06.

18 AN INDIVIDUAL WHO IS REGISTERED TO PRACTICE NON-THERAPEUTIC
 19 MASSAGE THERAPY UNDER § 3-5A-05 OF THIS SUBTITLE MAY NOT PRACTICE IN A
 20 MEDICAL OFFICE, HOSPITAL, OR OTHER HEALTH CARE FACILITY FOR THE PURPOSE
 21 OF PROVIDING MASSAGE THERAPY.

22 [3-5A-06.] 3-5A-07.

23 (A) To apply for a certificate, an applicant shall:

24 (1) Submit to the Board an application on the form that the Board
 25 requires;

26 (2) Submit to the Board evidence of compliance with the requirements of
 27 § 3-5A-05 of this subtitle; and

28 (3) Pay the application fee set by the Board.

29 (B) TO APPLY FOR REGISTRATION, AN APPLICANT SHALL:

30 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
 31 BOARD REQUIRES;

32 (2) SUBMIT TO THE BOARD EVIDENCE OF COMPLIANCE WITH THE
 33 REQUIREMENTS OF § 3-5A-05 OF THIS SUBTITLE; AND

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

2 [3-5A-07.] 3-5A-08.

3 (a) (1) A certificate OR REGISTRATION expires on the date set by the Board,
4 unless the certificate OR REGISTRATION is renewed for a 1-year term as provided in
5 this section.

6 (2) A certificate OR REGISTRATION may not BE renewed for a term of
7 longer than 2 years.

8 (b) At least 1 month before the certificate OR REGISTRATION expires, the
9 Board shall send to the certificate holder OR REGISTRATION HOLDER, by first class
10 mail to the last known address of the certificate holder OR REGISTRATION HOLDER, a
11 renewal notice that states:

12 (1) The date on which the current certificate OR REGISTRATION expires;

13 (2) The date by which the renewal application must be received by the
14 Board for the renewal to be issued and mailed before the certificate OR
15 REGISTRATION expires; and

16 (3) The amount of the renewal fee.

17 (c) Before a certificate OR REGISTRATION expires, the certificate holder OR
18 REGISTRATION HOLDER periodically may renew it for an additional term, if the
19 certificate holder OR REGISTRATION HOLDER:

20 (1) Otherwise is entitled to be certified OR REGISTERED;

21 (2) Submits to the Board a renewal application on the form that the
22 Board requires; and

23 (3) Pays to the Board a renewal fee set by the Board.

24 (d) (1) Each certificate holder OR REGISTRATION HOLDER shall notify the
25 Board in writing of any change in the name or address of the certificate holder OR
26 REGISTRATION HOLDER within 60 days after the change occurred.

27 (2) If a certificate holder OR REGISTRATION HOLDER fails to notify the
28 Board within the time required under this subsection, subject to the hearing
29 provisions of § 3-315 of this title, the Board may impose an administrative penalty of
30 \$100.

31 (e) (1) The Board shall renew the certificate of each certificate holder who
32 meets the requirements of this section.

33 (2) THE BOARD SHALL RENEW THE REGISTRATION OF EACH
34 REGISTRATION HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

1 [3-5A-08.] 3-5A-09.

2 (a) Subject to the hearing provisions of § 3-315 of this title, the Board may
3 deny a certificate OR REGISTRATION to any applicant, reprimand any certificate
4 holder OR REGISTRATION HOLDER, place any certificate holder OR REGISTRATION
5 HOLDER on probation, or suspend or revoke the certificate of a certificate holder OR
6 THE REGISTRATION OF A REGISTRATION HOLDER if the applicant, [or] certificate
7 holder, OR REGISTRATION HOLDER:

8 (1) Fraudulently or deceptively obtains or attempts to obtain a
9 certificate OR REGISTRATION for the applicant or for another;

10 (2) Fraudulently or deceptively uses a certificate OR REGISTRATION;

11 (3) Is disciplined by a licensing, certifying, or disciplinary authority of
12 any other state or country or convicted or disciplined by a court of any state or country
13 for an act that would be grounds for disciplinary action under this section;

14 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
15 crime involving moral turpitude, whether or not any appeal or other proceeding is
16 pending to have the conviction or plea set aside;

17 (5) Willfully and knowingly:

18 (i) Files a false report or record of an individual under the care of
19 the certificate holder OR REGISTRATION HOLDER; or

20 (ii) Gives any false or misleading information about a material
21 matter in an employment application;

22 (6) Knowingly does any act that has been determined by the Board, in its
23 regulations, to exceed the scope of practice authorized to the individual under this
24 subtitle;

25 (7) Provides professional services while:

26 (i) Under the influence of alcohol; or

27 (ii) Using any narcotic or controlled dangerous substance, as
28 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
29 amounts or without valid medical indication;

30 (8) Does an act that is inconsistent with generally accepted professional
31 standards in the practice of massage therapy;

32 (9) Is negligent in the practice of massage therapy;

33 (10) Is professionally incompetent;

34 (11) Has violated any provision of this subtitle;

- 1 (12) Submits a false statement to collect a fee;
- 2 (13) Is physically or mentally incompetent;
- 3 (14) Knowingly fails to report suspected child abuse in violation of § 5-704
4 of the Family Law Article;
- 5 (15) Refuses, withholds from, denies, or discriminates against an
6 individual with regard to the provision of professional services for which the
7 certificate holder OR REGISTRATION HOLDER is qualified to render because the
8 individual is HIV positive;
- 9 (16) Except in an emergency life-threatening situation where it is not
10 feasible or practicable, fails to comply with the Centers for Disease Control's
11 guidelines on universal precautions;
- 12 (17) Is habitually intoxicated;
- 13 (18) Is addicted to, or habitually abuses, any narcotic or controlled
14 dangerous substance as defined in Article 27 of the Code;
- 15 (19) Fails to cooperate with a lawful investigation conducted by the
16 Board;
- 17 (20) Engages in conduct that violates the professional code of ethics; or
- 18 (21) Knowingly does an act that has been determined by the Board to be a
19 violation of the Board's regulations.
- 20 (b) If, after a hearing under § 3-315 of this title, the Board finds that there
21 are grounds under subsection (a) of this section to suspend or revoke a certificate OR
22 REGISTRATION to practice massage therapy, to reprimand a certificate holder OR
23 REGISTRATION HOLDER, or place a certificate holder OR REGISTRATION HOLDER on
24 probation, the Board may impose a penalty not exceeding \$5,000 in lieu of or in
25 addition to suspending or revoking the certificate OR REGISTRATION, reprimanding
26 the certificate holder OR REGISTRATION HOLDER, or placing the certificate holder OR
27 REGISTRATION HOLDER on probation.
- 28 (c) (1) An individual whose certificate OR REGISTRATION has been
29 suspended or revoked by the Board shall return the certificate OR REGISTRATION to
30 the Board.
- 31 (2) If the suspended or revoked certificate OR REGISTRATION has been
32 lost, the individual shall file with the Board a verified statement to that effect.
- 33 (d) The Board shall file a notice for publication in the earliest publication of
34 the Maryland Register of each revocation or suspension of a certificate OR
35 REGISTRATION under this section within 24 hours of the revocation or suspension.

1 ~~[3-5A-09.]~~ 3-5A-10.

2 This subtitle does not limit the right of an individual to practice or advertise an
3 occupation that the individual is otherwise authorized to practice under the Maryland
4 Annotated Code.

5 ~~3-5A-10.~~ 3-5A-11.

6 (a) Except as otherwise provided in this subtitle, an individual may not
7 practice, attempt to practice, or offer to practice massage therapy, MASSAGE,
8 MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS in this State
9 unless certified by the Board.

10 (b) An individual who is not certified as a certified massage therapist OR
11 REGISTERED AS A MASSAGE TECHNICIAN under this subtitle may not advertise or
12 claim by title, abbreviation, sign, card, or any other representation that the individual
13 practices massage, massage therapy, myotherapy, or any synonym or derivation of
14 these terms.

15 (C) AN INDIVIDUAL WHO IS A REGISTERED MASSAGE TECHNICIAN UNDER
16 THIS SUBTITLE OR A BUSINESS ENTITY THAT EMPLOYS REGISTERED MASSAGE
17 TECHNICIANS UNDER THIS SUBTITLE MAY NOT ADVERTISE TO THE PUBLIC THAT
18 THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES HEALTH-RELATED THERAPEUTIC
19 MASSAGE SERVICES.

20 (e) (D) Any individual who violates a provision of this subsection is guilty of
21 a misdemeanor and on conviction shall be subject to a fine not exceeding \$5,000 or
22 imprisonment for not more than 1 year, or both.

23 3-5A-12.

24 (A) A HEALTH CARE PROVIDER LICENSED OR CERTIFIED UNDER THIS
25 ARTICLE MAY NOT REFER PATIENTS TO A PERSON WHO IS NOT A CERTIFIED
26 MASSAGE THERAPIST.

27 (B) A MASSAGE THERAPIST CERTIFIED UNDER THIS SUBTITLE MAY NOT
28 EMPLOY OR CONTRACT WITH AN INDIVIDUAL WHO IS NOT A CERTIFIED MASSAGE
29 THERAPIST.

30 ~~[3-5A-11.]~~ 3-5A-13.

31 Notwithstanding the fact that these services are provided within the scope of
32 their certified practice, nothing in this subtitle requires a nonprofit health service
33 plan, insurer, health maintenance organization, or person acting as a third party
34 administrator to reimburse a certified massage therapist OR REGISTERED MASSAGE
35 TECHNICIAN for any services rendered.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1999.

