
By: **Senators Jacobs and Hooper**

Introduced and read first time: February 3, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Massage Therapy Examiners - Licensure, Certification, and**
3 **Regulation**

4 FOR the purpose of creating the State Board of Massage Therapy Examiners in the
5 Department of Health and Mental Hygiene; providing for the composition,
6 appointment, terms, and expenses of the Board members; establishing certain
7 powers and duties of the Board; requiring the Board to appoint and establish the
8 powers and duties of a Board executive director; authorizing the Board to set
9 certain fees; requiring certain fees collected by the Board to be sent to the
10 Comptroller of the State; requiring the Comptroller to distribute certain fees to
11 a certain special fund; requiring certain persons to be licensed or certified by the
12 Board before an individual may practice massage therapy or nontherapeutic
13 massage in the State; establishing certain education, experience, and
14 examination requirements for licensed massage therapists and certified
15 massage practitioners; establishing certain requirements for qualifying,
16 renewing, reinstating, and surrendering a license or certificate for massage
17 therapists and massage practitioners; prohibiting a certified massage
18 practitioner from practicing nontherapeutic massage in certain health care
19 facilities; authorizing the Board to deny a license or certificate to an applicant,
20 refuse to renew a license or certificate, reprimand a licensee or certificate
21 holder, suspend or revoke a license or certificate, or impose certain penalties
22 under certain circumstances; prohibiting a health care provider from referring
23 patients to a person who is not a licensed massage therapist; providing that
24 certain providers of health insurance are not required to reimburse a licensed
25 massage therapist or certified massage practitioner for services rendered;
26 establishing certain hearing and appeal procedures for massage therapists and
27 massage practitioners; providing for the establishment and terms of a massage
28 therapist rehabilitation committee; requiring the Board to adopt regulations to
29 establish certain standards for advertising and soliciting of services by massage
30 therapists and massage practitioners; providing for the use of a trade name by
31 massage therapists and massage practitioners; providing civil immunity to
32 certain persons for reviewing certain fees and charges; prohibiting certain
33 persons from misrepresenting an individual's status of licensure or certification
34 as a massage therapist or massage practitioner by the Board; providing certain
35 restrictions on the advertising of nontherapeutic massage services; providing for

1 certain criminal penalties; providing that it is a misdemeanor for a person to
2 provide a massage or offer to provide a massage to another person for
3 compensation in Charles and Washington counties unless certain persons are
4 licensed or certified by the Board; authorizing the boards of county
5 commissioners of Charles and Washington counties to adopt certain ordinances
6 and regulations relating to massage establishments and the practice of massage
7 therapists and practitioners in Charles and Washington counties; requiring the
8 boards of county commissioners of Charles and Washington counties to provide
9 for certain health officers and the office of the sheriff in both counties to enforce
10 certain ordinances and regulations; requiring that an evaluation of the Board
11 and the statutes and regulations that relate to the Board be performed on or
12 before a certain date; defining certain terms; specifying the terms of the initial
13 members of the Board; providing for the transition from the Massage Therapy
14 Advisory Committee and the State Board of Chiropractic Examiners to the State
15 Board of Massage Therapy Examiners regarding the regulation and licensure
16 and certification of massage therapists and massage practitioners; requiring the
17 Board to submit a certain report to certain committees of the General Assembly
18 on or before a certain date; making certain technical corrections; providing for a
19 delayed effective date for certain provisions of this Act; and generally relating to
20 the State Board of Massage Therapy Examiners and licensing, certification, and
21 regulation of massage therapists and massage practitioners.

22 BY renumbering

23 Article - State Government
24 Section 8-403(b)(42) through (70), respectively
25 to be Section 8-403(b)(43) through (71), respectively
26 Annotated Code of Maryland
27 (1999 Replacement Volume and 2003 Supplement)

28 BY repealing

29 Article - Health Occupations
30 Section 3-5A-01 through 3-5A-14, inclusive, and the subtitle "Subtitle 5A.
31 Certification of Massage Therapists"
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2003 Supplement)

34 BY adding to

35 Article - Health Occupations
36 Section 6.5-101 through 6.5-702 to be under the new title "Title 6.5. Massage
37 Therapy"
38 Annotated Code of Maryland
39 (2000 Replacement Volume and 2003 Supplement)

40 BY repealing and reenacting, without amendments,

41 Article - State Government
42 Section 8-403(a)

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2003 Supplement)

3 BY adding to
4 Article - State Government
5 Section 8-403(b)(42)
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2003 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 8-403(b)(42) through (70), respectively, of Article -
10 State Government of the Annotated Code of Maryland be renumbered to be Section(s)
11 8-403(b)(43) through (71), respectively.

12 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-5A-01
13 through 3-5A-14, inclusive, and the subtitle "Subtitle 5A. Certification of Massage
14 Therapists" of Article - Health Occupations of the Annotated Code of Maryland be
15 repealed.

16 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article - Health Occupations**

19 **TITLE 6.5. MASSAGE THERAPY.**

20 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

21 6.5-101.

22 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 (B) "BOARD" MEANS THE STATE BOARD OF MASSAGE THERAPY EXAMINERS.

24 (C) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE BOARD TO
25 PRACTICE NONTHERAPEUTIC MASSAGE THERAPY.

26 (D) "CERTIFIED MASSAGE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS
27 CERTIFIED BY THE BOARD TO PRACTICE NONTHERAPEUTIC MASSAGE.

28 (E) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO PRACTICE
29 MASSAGE THERAPY.

30 (F) "LICENSED MASSAGE THERAPIST" MEANS AN INDIVIDUAL WHO IS
31 LICENSED BY THE BOARD TO PRACTICE MASSAGE THERAPY.

32 (G) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-114 OF THE
33 HEALTH - GENERAL ARTICLE.

1 (H) (1) "MASSAGE THERAPY" MEANS THE USE OF MANUAL TECHNIQUES ON
2 SOFT TISSUES OF THE HUMAN BODY FOR THE PURPOSE OF IMPROVING
3 CIRCULATION, ENHANCING MUSCLE RELAXATION, RELIEVING MUSCULAR PAIN,
4 REDUCING STRESS, AND PROMOTING HEALTH AND WELL-BEING.

5 (2) "MASSAGE THERAPY" INCLUDES THE USE OF THE MANUAL
6 TECHNIQUES OF STROKING (EFFLEURAGE), KNEADING (PETRISSAGE), TAPPING
7 (TAPOTEMENT), STRETCHING, COMPRESSION, VIBRATION, AND FRICTION WITH OR
8 WITHOUT THE AID OF HEAT FROM HOT PACKS AND HEATING PADS, COLD WATER, OR
9 NONLEGEND TOPICAL APPLICATIONS.

10 (3) "MASSAGE THERAPY" DOES NOT INCLUDE:

11 (I) THE DIAGNOSIS OR TREATMENT OF ILLNESS, DISEASE, OR
12 INJURY;

13 (II) THE ADJUSTMENT, MANIPULATION, OR MOBILIZATION OF ANY
14 OF THE ARTICULATIONS OF THE OSSEOUS STRUCTURES OF THE HUMAN BODY OR
15 SPINE; OR

16 (III) THE LAYING OF HANDS, CONSISTING OF PRESSURE OR
17 MOVEMENT ON A FULLY CLOTHED INDIVIDUAL, TO SPECIFICALLY AFFECT THE
18 ELECTROMAGNETIC ENERGY OR ENERGETIC FIELD OF THE HUMAN BODY.

19 (4) IN PARAGRAPH (3)(III) OF THIS SUBSECTION, "FULLY CLOTHED" DOES
20 NOT REQUIRE THE WEARING OF FOOTWEAR.

21 (5) THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION DO NOT
22 PRECLUDE THE APPLICATION OF THE MODALITIES DESCRIBED IN PARAGRAPH (2) OF
23 THIS SUBSECTION TO AN INDIVIDUAL WHO HAS AN INJURY.

24 (I) "PRACTICE MASSAGE THERAPY" MEANS TO ENGAGE PROFESSIONALLY
25 AND FOR COMPENSATION IN MASSAGE THERAPY.

26 (J) "PRACTICE NONTHERAPEUTIC MASSAGE" MEANS TO ENGAGE
27 PROFESSIONALLY AND FOR COMPENSATION IN MASSAGE THERAPY IN A SETTING
28 THAT IS NOT A HEALTH CARE FACILITY.

29 6.5-102.

30 EXCEPT AS SPECIFICALLY PROVIDED IN THIS TITLE, THIS TITLE DOES NOT
31 LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE A HEALTH OCCUPATION THAT
32 THE INDIVIDUAL IS AUTHORIZED TO PRACTICE UNDER THIS ARTICLE.

33 SUBTITLE 2. STATE BOARD OF MASSAGE THERAPY EXAMINERS.

34 6.5-201.

35 THERE IS A STATE BOARD OF MASSAGE THERAPY EXAMINERS IN THE
36 DEPARTMENT.

1 6.5-202.

2 (A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS.

3 (2) OF THE SEVEN BOARD MEMBERS:

4 (I) FOUR SHALL BE LICENSED MASSAGE THERAPISTS;

5 (II) ONE SHALL BE A CERTIFIED MASSAGE PRACTITIONER;

6 (III) ONE SHALL BE AN INSTRUCTOR OF MASSAGE THERAPY; AND

7 (IV) ONE SHALL BE A CONSUMER MEMBER.

8 (3) (I) THE GOVERNOR SHALL APPOINT THE LICENSED MASSAGE
9 THERAPIST MEMBERS, THE CERTIFIED MASSAGE PRACTITIONER MEMBER, AND THE
10 MASSAGE THERAPY INSTRUCTOR MEMBER WITH THE ADVICE OF THE SECRETARY,
11 FROM A LIST OF NAMES OF QUALIFIED INDIVIDUALS SUBMITTED TO THE
12 SECRETARY AND THE GOVERNOR BY THE AMERICAN MASSAGE THERAPY
13 ASSOCIATION.

14 (II) THE LIST OF QUALIFIED NOMINEES SUBMITTED TO THE
15 SECRETARY AND THE GOVERNOR FOR APPOINTMENT UNDER SUBPARAGRAPH (I) OF
16 THIS PARAGRAPH SHALL BE AT LEAST FIVE TIMES THE NUMBER OF VACANCIES.

17 (III) UNLESS AN INCUMBENT MEMBER DECLINES RENOMINATION,
18 THE NOMINATION LIST SHALL INCLUDE THE NAMES OF THE INCUMBENT MEMBERS
19 OF THE BOARD.

20 (4) FOR EACH LICENSED MASSAGE THERAPIST, CERTIFIED MASSAGE
21 PRACTITIONER, AND MASSAGE THERAPY INSTRUCTOR VACANCY, THE AMERICAN
22 MASSAGE THERAPY ASSOCIATION, ASSOCIATED BODYWORK AND MASSAGE
23 PROFESSIONALS, AND THE INTERNATIONAL MASSAGE ASSOCIATION SHALL:

24 (I) NOTIFY ALL LICENSED MASSAGE THERAPISTS AND CERTIFIED
25 MASSAGE PRACTITIONERS IN THE STATE OF THE VACANCY TO SOLICIT
26 NOMINATIONS TO FILL THE VACANCY; AND

27 (II) CONDUCT A BALLOTING PROCESS IN WHICH EACH LICENSED
28 MASSAGE THERAPIST AND CERTIFIED MASSAGE PRACTITIONER IS ELIGIBLE TO
29 VOTE TO SELECT THE NAMES OF THE NOMINEES THAT WILL BE SUBMITTED TO THE
30 SECRETARY AND THE GOVERNOR.

31 (5) THE GOVERNOR SHALL APPOINT THE CONSUMER MEMBER WITH
32 THE ADVICE OF THE SECRETARY AND THE ADVICE AND CONSENT OF THE SENATE.

33 (B) EACH LICENSED MASSAGE THERAPIST AND CERTIFIED MASSAGE
34 PRACTITIONER MEMBER SHALL BE:

35 (1) A RESIDENT OF THE STATE;

1 (2) AN INDIVIDUAL WHO HAS PRACTICED MASSAGE WITHIN THE STATE
2 FOR AT LEAST 5 CONSECUTIVE YEARS BEFORE APPOINTMENT; AND

3 (3) LICENSED OR CERTIFIED BY THE STATE.

4 (C) THE MESSAGE THERAPY INSTRUCTOR MEMBER SHALL BE:

5 (1) A RESIDENT OF THE STATE;

6 (2) AN INSTRUCTOR AT A BOARD APPROVED SCHOOL OR INSTITUTION IN
7 THE STATE FOR AT LEAST 2 YEARS; AND

8 (3) A MESSAGE THERAPIST LICENSED BY THE STATE FOR AT LEAST 5
9 YEARS.

10 (D) THE CONSUMER MEMBER OF THE BOARD:

11 (1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

12 (2) MAY NOT BE OR EVER HAVE BEEN A MESSAGE THERAPIST OR
13 MESSAGE PRACTITIONER OR IN TRAINING TO BECOME A MESSAGE THERAPIST OR A
14 MESSAGE PRACTITIONER;

15 (3) MAY NOT HAVE A HOUSEHOLD MEMBER WHO IS A MESSAGE
16 THERAPIST OR MESSAGE PRACTITIONER OR IN TRAINING TO BECOME A MESSAGE
17 THERAPIST OR MESSAGE PRACTITIONER;

18 (4) MAY NOT PARTICIPATE OR EVER HAVE PARTICIPATED IN A
19 COMMERCIAL OR PROFESSIONAL FIELD RELATED TO MESSAGE THERAPY;

20 (5) MAY NOT HAVE A HOUSEHOLD MEMBER WHO PARTICIPATES IN A
21 COMMERCIAL OR PROFESSIONAL FIELD RELATED TO MESSAGE THERAPY; AND

22 (6) MAY NOT HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT A
23 SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD.

24 (E) WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER MAY NOT HAVE
25 A SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD.

26 (F) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE
27 THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

28 (G) (1) THE TERM OF A MEMBER IS 4 YEARS.

29 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
30 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2004.

31 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
32 SUCCESSOR IS APPOINTED AND QUALIFIES.

1 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
2 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
3 QUALIFIES.

4 (5) TO THE EXTENT PRACTICABLE, THE GOVERNOR SHALL FILL ANY
5 VACANCY ON THE BOARD WITHIN 60 DAYS OF THE DATE OF THE VACANCY.

6 (6) A MEMBER MAY NOT SERVE MORE THAN 2 CONSECUTIVE FULL
7 TERMS.

8 (H) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
9 MISCONDUCT.

10 6.5-203.

11 (A) THE BOARD ANNUALLY SHALL ELECT A CHAIRMAN FROM AMONG ITS
12 MEMBERS.

13 (B) THE BOARD SHALL DETERMINE:

14 (1) THE MANNER OF ELECTION OF THE CHAIRMAN; AND

15 (2) THE DUTIES OF THE CHAIRMAN.

16 6.5-204.

17 (A) THE BOARD SHALL APPOINT A BOARD EXECUTIVE DIRECTOR, WHO
18 SERVES AT THE PLEASURE OF THE BOARD.

19 (B) THE BOARD EXECUTIVE DIRECTOR:

20 (1) IS THE EXECUTIVE OFFICER OF THE BOARD; AND

21 (2) HAS THE POWERS AND DUTIES ASSIGNED BY THE BOARD.

22 6.5-205.

23 (A) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE BOARD IS A
24 QUORUM TO DO BUSINESS.

25 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
26 MEETINGS.

27 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO:

28 (1) COMPENSATION DETERMINED BY THE BOARD AND IN ACCORDANCE
29 WITH THE BUDGET OF THE BOARD; AND

30 (2) REIMBURSEMENT FOR EXPENSES AT A RATE DETERMINED BY THE
31 BOARD.

1 (D) IN ACCORDANCE WITH THE BUDGET OF THE BOARD, THE BOARD MAY
2 EMPLOY A STAFF.

3 6.5-206.

4 (A) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS TITLE, THE
5 BOARD MAY:

6 (1) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
7 TITLE;

8 (2) SUMMON WITNESSES, ADMINISTER OATHS, TAKE AFFIDAVITS, AND
9 TAKE TESTIMONY ABOUT MATTERS THAT RELATE TO THE DUTIES OF THE BOARD;
10 AND

11 (3) IN ACCORDANCE WITH THE STATE BUDGET, AUTHORIZE PAYMENT
12 OF FEES AND TRAVEL EXPENSES OF WITNESSES WHO TESTIFY IN ANY PROCEEDING
13 BEFORE THE BOARD.

14 (B) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS TITLE, THE
15 BOARD SHALL:

16 (1) KEEP A LIST OF THE NAME AND ADDRESS OF EACH LICENSED
17 MESSAGE THERAPIST AND CERTIFIED MESSAGE PRACTITIONER;

18 (2) ADOPT AN OFFICIAL SEAL;

19 (3) FILE REPORTS OF ITS ACTIVITIES AS REQUIRED BY THE SECRETARY;

20 (4) ASSIST IN PROSECUTIONS UNDER THIS TITLE; AND

21 (5) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.

22 6.5-207.

23 (A) THERE IS A STATE BOARD OF MASSAGE THERAPY EXAMINERS FUND.

24 (B) (1) THE BOARD MAY SET REASONABLE FEES FOR THE ISSUANCE AND
25 RENEWAL OF LICENSES AND CERTIFICATES AND ITS OTHER SERVICES.

26 (2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE
27 COST OF MAINTAINING THE BOARD.

28 (3) FUNDS TO COVER THE COMPENSATION AND EXPENSES OF THE
29 BOARD MEMBERS SHALL BE GENERATED BY FEES SET UNDER THIS SECTION.

30 (C) (1) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE
31 TO THE COMPTROLLER OF THE STATE.

32 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE
33 BOARD OF MASSAGE THERAPY EXAMINERS FUND.

1 (D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED
2 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY
3 DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS ARTICLE.

4 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §
5 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

6 (3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED
7 OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND
8 TO BE USED FOR THE PURPOSES SPECIFIED IN THIS ARTICLE.

9 (4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

10 (E) (1) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE FUND.

11 (2) MONEYS IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL
12 PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS ARTICLE.

13 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
14 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
15 ARTICLE.

16 6.5-208.

17 A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §
18 5-704 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR
19 OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

20 SUBTITLE 3. LICENSES.

21 6.5-301.

22 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL
23 BE LICENSED OR CERTIFIED BY THE BOARD BEFORE THE INDIVIDUAL MAY
24 PRACTICE MASSAGE THERAPY OR NONTHERAPEUTIC MASSAGE IN THIS STATE.

25 (B) THIS SECTION DOES NOT APPLY TO:

26 (1) A STUDENT ENROLLED IN AN APPROVED EDUCATION PROGRAM AS
27 DETERMINED BY THE BOARD WHILE PRACTICING MASSAGE THERAPY IN THE STATE;

28 (2) AN INDIVIDUAL PERMITTED TO PRACTICE MASSAGE THERAPY
29 UNDER REGULATIONS ADOPTED BY THE BOARD, IF THE INDIVIDUAL:

30 (I) OTHERWISE HAS QUALIFIED TO PRACTICE MASSAGE THERAPY
31 IN ANY OTHER STATE OR COUNTRY THAT HAS SUBSTANTIALLY SIMILAR
32 REQUIREMENTS FOR AUTHORIZATION TO PRACTICE MASSAGE THERAPY AND THE
33 INDIVIDUAL IS IN THIS STATE FOR NO MORE THAN 7 DAYS; OR

1 (II) HAS AN APPLICATION FOR A LICENSE PENDING BEFORE THE
2 BOARD BUT HAS NOT TAKEN THE EXAMINATION REQUIRED UNDER THIS SECTION OR
3 HAS TAKEN AN EXAMINATION UNDER THIS SECTION, BUT THE RESULTS OF THE
4 EXAMINATION ARE NOT YET KNOWN;

5 (3) A FAMILY MEMBER PRACTICING MASSAGE THERAPY ON ANOTHER
6 FAMILY MEMBER;

7 (4) AN ATHLETIC TRAINER WHILE FUNCTIONING IN THE COURSE OF
8 THE ATHLETIC TRAINER'S PROFESSIONAL CAPACITY;

9 (5) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT TO
10 PRACTICE MASSAGE THERAPY WHILE PRACTICING WITHIN THE SCOPE OF THE
11 INDIVIDUAL'S EMPLOYMENT; OR

12 (6) AN INDIVIDUAL WORKING IN A BEAUTY SALON:

13 (I) FOR WHICH THE PERSON WHO OPERATES THE BEAUTY SALON
14 HAS OBTAINED A PERMIT FROM THE STATE BOARD OF COSMETOLOGY AS REQUIRED
15 UNDER § 5-501 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

16 (II) IN WHICH THE INDIVIDUAL IS PROVIDING COSMETOLOGY AND
17 ESTHETIC SERVICES, INCLUDING THE APPLICATION AND REMOVAL OF SKIN OR SKIN
18 CARE PRODUCTS.

19 6.5-302.

20 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL
21 WHO:

22 (1) IS OF GOOD MORAL CHARACTER;

23 (2) IS AT LEAST 18 YEARS OLD;

24 (3) HAS SATISFACTORILY COMPLETED AT LEAST 60 CREDIT HOURS OF
25 EDUCATION AT AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10-101 OF
26 THE EDUCATION ARTICLE AND AS APPROVED BY THE BOARD AND THE MARYLAND
27 HIGHER EDUCATION COMMISSION;

28 (4) HAS COMPLETED 500 HOURS OF EDUCATION IN A BOARD APPROVED
29 PROGRAM FOR THE STUDY OF MASSAGE THERAPY THAT INCLUDES THE FOLLOWING
30 AREAS OF CONTENT:

31 (I) ANATOMY AND PHYSIOLOGY;

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

33 (III) CONTRAINDICATIONS TO MASSAGE THERAPY; AND

34 (IV) PROFESSIONAL ETHICS; AND

1 (5) HAS PASSED AN EXAMINATION APPROVED BY THE BOARD.

2 (B) TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL BE AN
3 INDIVIDUAL WHO:

4 (1) IS OF GOOD MORAL CHARACTER;

5 (2) IS AT LEAST 18 YEARS OLD;

6 (3) HAS COMPLETED 500 HOURS OF EDUCATION IN A BOARD APPROVED
7 PROGRAM FOR THE STUDY OF MASSAGE THERAPY THAT INCLUDES THE FOLLOWING
8 AREAS OF CONTENT:

9 (I) ANATOMY AND PHYSIOLOGY;

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

11 (III) CONTRAINDICATIONS TO MASSAGE THERAPY; AND

12 (IV) PROFESSIONAL ETHICS; AND

13 (4) HAS PASSED AN EXAMINATION APPROVED BY THE BOARD.

14 (C) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD
15 MAY WAIVE ANY REQUIREMENT OF THIS SUBTITLE FOR AN APPLICANT WHO IS
16 LICENSED, CERTIFIED, OR REGISTERED TO PRACTICE MASSAGE THERAPY IN
17 ANOTHER STATE.

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

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

21 (II) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

22 1. HAS COMPLETED EDUCATIONAL REQUIREMENTS THAT
23 THE BOARD DETERMINES TO BE EQUIVALENT TO THE BOARD APPROVED
24 EDUCATIONAL REQUIREMENTS IN THIS STATE;

25 2. AT THE TIME THE APPLICANT BECAME LICENSED,
26 CERTIFIED, OR REGISTERED IN THE OTHER STATE, PASSED IN THAT STATE OR ANY
27 OTHER STATE AN EXAMINATION THAT THE BOARD DETERMINES TO BE EQUIVALENT
28 TO THE EXAMINATION REQUIRED IN THIS STATE; AND

29 3. IS OF GOOD MORAL CHARACTER.

30 6.5-303.

31 AN INDIVIDUAL WHO IS CERTIFIED TO PRACTICE NONTHERAPEUTIC MASSAGE
32 UNDER § 6.5-301 OF THIS SUBTITLE MAY NOT PRACTICE IN A MEDICAL HEALTH CARE

1 PROVIDER'S OFFICE, HOSPITAL, OR OTHER HEALTH CARE FACILITY FOR THE
2 PURPOSE OF PROVIDING MASSAGE.

3 6.5-304.

4 (A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

5 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
6 BOARD REQUIRES;

7 (2) SUBMIT TO THE BOARD EVIDENCE OF COMPLIANCE WITH THE
8 REQUIREMENTS OF § 6.5-301 OF THIS SUBTITLE; AND

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

10 (B) TO APPLY FOR A CERTIFICATE, AN APPLICANT SHALL:

11 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
12 BOARD REQUIRES;

13 (2) SUBMIT TO THE BOARD EVIDENCE OF COMPLIANCE WITH THE
14 REQUIREMENTS OF § 6.5-301 OF THIS SUBTITLE; AND

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

16 6.5-305.

17 (A) (1) A LICENSE OR CERTIFICATE EXPIRES ON THE DATE SET BY THE
18 BOARD, UNLESS THE LICENSE OR CERTIFICATE IS RENEWED FOR A 1-YEAR TERM AS
19 PROVIDED IN THIS SECTION.

20 (2) A LICENSE OR CERTIFICATE MAY NOT BE RENEWED FOR A TERM OF
21 LONGER THAN 2 YEARS.

22 (B) AT LEAST 1 MONTH BEFORE THE LICENSE OR CERTIFICATE EXPIRES, THE
23 BOARD SHALL SEND TO THE LICENSEE OR CERTIFICATE HOLDER, BY FIRST-CLASS
24 MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE OR CERTIFICATE HOLDER, A
25 RENEWAL NOTICE THAT STATES:

26 (1) THE DATE ON WHICH THE CURRENT LICENSE OR CERTIFICATE
27 EXPIRES;

28 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
29 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
30 THE LICENSE OR CERTIFICATE EXPIRES; AND

31 (3) THE AMOUNT OF THE RENEWAL FEE.

32 (C) BEFORE A LICENSE OR CERTIFICATE EXPIRES, THE LICENSEE OR
33 CERTIFICATE HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF
34 THE LICENSEE OR CERTIFICATE HOLDER:

1 (1) OTHERWISE IS ENTITLED TO BE LICENSED OR CERTIFIED;

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

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

5 (D) (1) EACH LICENSEE OR CERTIFICATE HOLDER SHALL NOTIFY THE
6 BOARD IN WRITING OF ANY CHANGE IN THE NAME OR ADDRESS OF THE LICENSEE
7 OR CERTIFICATE HOLDER WITHIN 60 DAYS AFTER THE CHANGE OCCURRED.

8 (2) IF A LICENSEE OR CERTIFICATE HOLDER FAILS TO NOTIFY THE
9 BOARD WITHIN THE TIME REQUIRED UNDER THIS SUBSECTION, SUBJECT TO THE
10 HEARING PROVISIONS OF § 6.5-312 OF THIS SUBTITLE, THE BOARD MAY IMPOSE AN
11 ADMINISTRATIVE PENALTY OF \$100.

12 (E) (1) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO
13 MEETS THE REQUIREMENTS OF THIS SECTION.

14 (2) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH CERTIFICATE
15 HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

16 6.5-306.

17 (A) THE BOARD SHALL REINSTATE A LICENSE OR CERTIFICATE THAT IS
18 EXPIRED ONLY IF THE FORMER LICENSEE OR CERTIFICATE HOLDER:

19 (1) MEETS THE RENEWAL REQUIREMENTS OF § 6.5-305 OF THIS
20 SUBTITLE; AND

21 (2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.

22 (B) IF A MESSAGE THERAPIST OR MESSAGE PRACTITIONER FAILS FOR ANY
23 REASON TO RENEW THE LICENSE OF THE MESSAGE THERAPIST OR CERTIFICATE OF
24 THE MESSAGE PRACTITIONER, THE BOARD SHALL REINSTATE THE LICENSE OR
25 CERTIFICATE IF THE MESSAGE THERAPIST OR MESSAGE PRACTITIONER:

26 (1) APPLIES TO THE BOARD FOR REINSTATEMENT OF THE LICENSE OR
27 CERTIFICATE WITHIN 5 YEARS AFTER THE LICENSE OR CERTIFICATE EXPIRES;

28 (2) MEETS THE RENEWAL REQUIREMENTS OF § 6.5-305 OF THIS
29 SUBTITLE; AND

30 (3) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE BOARD.

31 (C) THE BOARD MAY NOT REINSTATE THE LICENSE OF A MESSAGE THERAPIST
32 OR THE CERTIFICATE OF A MESSAGE PRACTITIONER WHO FAILS TO APPLY FOR
33 REINSTATEMENT OF THE LICENSE OR CERTIFICATE WITHIN 5 YEARS AFTER THE
34 LICENSE OR CERTIFICATE EXPIRES. HOWEVER, THE MESSAGE THERAPIST OR
35 MESSAGE PRACTITIONER MAY BECOME LICENSED OR CERTIFIED BY MEETING THE

1 CURRENT REQUIREMENTS FOR OBTAINING A NEW LICENSE OR CERTIFICATE UNDER
2 THIS TITLE.

3 6.5-307.

4 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE
5 OR CERTIFICATE OF A LICENSED MASSAGE THERAPIST OR A CERTIFIED MASSAGE
6 PRACTITIONER, A LICENSED MASSAGE THERAPIST OR A CERTIFIED MASSAGE
7 PRACTITIONER MAY NOT SURRENDER THE LICENSE OR CERTIFICATE NOR MAY THE
8 LICENSE OR CERTIFICATE LAPSE BY OPERATION OF LAW WHILE A LICENSEE OR
9 CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING
10 AGAINST THE MASSAGE THERAPIST OR MASSAGE PRACTITIONER.

11 (B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE
12 MASSAGE THERAPIST OR MASSAGE PRACTITIONER UNDER INVESTIGATION OR
13 AGAINST WHOM CHARGES ARE PENDING TO ACCEPT SURRENDER OF THE MASSAGE
14 THERAPIST'S LICENSE OR THE MASSAGE PRACTITIONER'S CERTIFICATE.

15 6.5-308.

16 (A) SUBJECT TO THE HEARING PROVISIONS OF § 6.5-312 OF THIS SUBTITLE,
17 THE BOARD MAY DENY A LICENSE OR CERTIFICATE TO ANY APPLICANT, REPRIMAND
18 ANY LICENSEE OR CERTIFICATE HOLDER, PLACE ANY LICENSEE OR CERTIFICATE
19 HOLDER ON PROBATION, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE OR
20 THE CERTIFICATE OF A CERTIFICATE HOLDER IF THE APPLICANT, LICENSEE, OR
21 CERTIFICATE HOLDER:

22 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
23 OBTAIN A LICENSE OR CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;

24 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR
25 CERTIFICATE;

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

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

34 (5) WILLFULLY AND KNOWINGLY:

35 (I) FILES A FALSE REPORT OR RECORD OF AN INDIVIDUAL UNDER
36 THE CARE OF THE LICENSEE OR CERTIFICATE HOLDER; OR

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

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

4 (7) PROVIDES PROFESSIONAL SERVICES WHILE:

5 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

6 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
7 SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER
8 DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL
9 INDICATION;

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

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

13 (10) IS PROFESSIONALLY INCOMPETENT;

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

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

16 (13) IS PHYSICALLY OR MENTALLY INCOMPETENT;

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

19 (15) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST
20 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR
21 WHICH THE LICENSEE OR CERTIFICATE HOLDER IS QUALIFIED TO RENDER BECAUSE
22 THE INDIVIDUAL IS HIV POSITIVE;

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

26 (17) IS HABITUALLY INTOXICATED;

27 (18) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR
28 CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL
29 LAW ARTICLE;

30 (19) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
31 BY THE BOARD;

32 (20) ENGAGES IN CONDUCT THAT VIOLATES THE PROFESSIONAL CODE
33 OF ETHICS; OR

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

3 (B) IF, AFTER A HEARING UNDER § 6.5-312 OF THIS SUBTITLE, THE BOARD
4 FINDS THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO
5 SUSPEND OR REVOKE A LICENSE TO PRACTICE MASSAGE THERAPY OR CERTIFICATE
6 TO PRACTICE NONTHERAPEUTIC MASSAGE, TO REPRIMAND A LICENSEE OR
7 CERTIFICATE HOLDER, OR PLACE A LICENSEE OR CERTIFICATE HOLDER ON
8 PROBATION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 IN LIEU OF
9 OR IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE,
10 REPRIMANDING THE LICENSEE OR CERTIFICATE HOLDER, OR PLACING THE
11 LICENSEE OR CERTIFICATE HOLDER ON PROBATION.

12 (C) (1) AN INDIVIDUAL WHOSE LICENSE OR CERTIFICATE HAS BEEN
13 SUSPENDED OR REVOKED BY THE BOARD SHALL RETURN THE LICENSE OR
14 CERTIFICATE TO THE BOARD.

15 (2) IF THE SUSPENDED OR REVOKED LICENSE OR CERTIFICATE HAS
16 BEEN LOST, THE INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT
17 TO THAT EFFECT.

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

22 6.5-309.

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

26 6.5-310.

27 A HEALTH CARE PROVIDER LICENSED OR CERTIFIED UNDER THIS ARTICLE MAY
28 NOT REFER PATIENTS TO A PERSON WHO IS NOT A LICENSED MASSAGE THERAPIST.

29 6.5-311.

30 NOTWITHSTANDING THE FACT THAT THESE SERVICES ARE PROVIDED WITHIN
31 THE SCOPE OF THEIR LICENSED PRACTICE, NOTHING IN THIS SUBTITLE REQUIRES A
32 NONPROFIT HEALTH SERVICE PLAN, INSURER, HEALTH MAINTENANCE
33 ORGANIZATION, OR PERSON ACTING AS A THIRD PARTY ADMINISTRATOR TO
34 REIMBURSE A LICENSED MASSAGE THERAPIST OR CERTIFIED MASSAGE
35 PRACTITIONER FOR ANY SERVICES RENDERED.

36 6.5-312.

37 (A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE
38 ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 6.5-308 OF THIS SUBTITLE, IT

1 SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN
2 OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

3 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN
4 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

5 (C) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

6 (D) (1) THE CHAIRMAN OF THE BOARD MAY DELEGATE AUTHORITY TO
7 CONDUCT A HEARING TO A COMMITTEE CONSISTING OF THREE OR MORE BOARD
8 MEMBERS.

9 (2) THE COMMITTEE SHALL:

10 (I) HOLD AN EVIDENTIARY HEARING; AND

11 (II) PREPARE A RECOMMENDED DECISION FOR CONSIDERATION BY
12 A QUORUM OF THE BOARD, WHICH MAY INCLUDE MEMBERS OF THE COMMITTEE.

13 (3) THE COMMITTEE SHALL GIVE TO THE INDIVIDUAL WHO IS THE
14 SUBJECT OF THE HEARING NOTICE OF THE OPPORTUNITY TO FILE EXCEPTIONS AND
15 PRESENT ARGUMENT TO THE BOARD REGARDING THE DECISION OF THE
16 COMMITTEE.

17 (E) OVER THE SIGNATURE OF AN OFFICER OR THE EXECUTIVE DIRECTOR OF
18 THE BOARD, THE BOARD MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN
19 CONNECTION WITH ANY INVESTIGATION UNDER THIS TITLE AND ANY HEARINGS OR
20 PROCEEDINGS BEFORE IT.

21 (F) IF, WITHOUT LAWFUL EXCUSE, A PERSON DISOBEYS A SUBPOENA FROM
22 THE BOARD OR AN ORDER BY THE BOARD TO TAKE AN OATH OR TO TESTIFY OR
23 ANSWER A QUESTION, THEN, ON PETITION OF THE BOARD, A COURT OF COMPETENT
24 JURISDICTION MAY PUNISH THE PERSON AS FOR CONTEMPT OF COURT.

25 (G) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS
26 CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY
27 HEAR AND DETERMINE THE MATTER.

28 (H) IF, AFTER A HEARING, AN INDIVIDUAL IS FOUND IN VIOLATION OF §
29 6.5-305 OF THIS SUBTITLE, THE INDIVIDUAL SHALL PAY THE COSTS OF THE HEARING
30 AS SPECIFIED IN REGULATION ADOPTED BY THE BOARD.

31 6.5-313.

32 (A) EXCEPT AS PROVIDED IN THIS SECTION FOR AN ACTION UNDER § 6.5-308
33 OF THIS SUBTITLE, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN
34 A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, MAY:

35 (1) APPEAL THAT DECISION TO THE BOARD OF REVIEW; AND

1 (2) THEN TAKE ANY FURTHER APPEAL ALLOWED BY THE
2 ADMINISTRATIVE PROCEDURE ACT.

3 (B) (1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD
4 UNDER § 6.5-305 OF THIS SUBTITLE MAY NOT APPEAL TO THE SECRETARY OR BOARD
5 OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

6 (2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW
7 OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

8 6.5-314.

9 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THIS STATE OR THE
10 BOARD TO ENJOIN:

11 (1) THE UNAUTHORIZED PRACTICE OF MASSAGE THERAPY; OR

12 (2) CONDUCT THAT IS GROUND FOR DISCIPLINARY ACTION UNDER §
13 6.5-305 OF THIS TITLE.

14 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

15 (1) THE BOARD IN ITS OWN NAME;

16 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

17 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

18 (C) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY
19 WHERE THE DEFENDANT RESIDES OR ENGAGED IN THE ACT SOUGHT TO BE
20 ENJOINED.

21 (D) AN ACTION UNDER THIS SECTION MAY BE BROUGHT AGAINST AN
22 INDIVIDUAL WHO IS AUTHORIZED TO PRACTICE MASSAGE THERAPY UNDER THIS
23 TITLE.

24 (E) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
25 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
26 UNDER THIS SECTION.

27 (F) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
28 OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF MASSAGE
29 THERAPY UNDER § 6.5-501 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 6.5-308
30 OF THIS SUBTITLE.

31 6.5-315.

32 (A) IN THIS SECTION, "MESSAGE THERAPIST REHABILITATION COMMITTEE"
33 MEANS A COMMITTEE THAT:

1 (1) IS A COMMITTEE OF THE BOARD OR OF THE AMERICAN MASSAGE
2 THERAPY ASSOCIATION - MARYLAND CHAPTER THAT:

3 (I) IS RECOGNIZED BY THE BOARD; AND

4 (II) INCLUDES MASSAGE THERAPISTS AND MASSAGE
5 PRACTITIONERS; AND

6 (2) PERFORMS ANY OF THE FUNCTIONS LISTED IN SUBSECTION (C) OF
7 THIS SECTION.

8 (B) A REHABILITATION COMMITTEE OF THE BOARD OR RECOGNIZED BY THE
9 BOARD MAY FUNCTION:

10 (1) SOLELY FOR THE BOARD; OR

11 (2) JOINTLY WITH A REHABILITATION COMMITTEE REPRESENTING
12 ANOTHER BOARD.

13 (C) FOR PURPOSES OF THIS SECTION, A MASSAGE THERAPIST
14 REHABILITATION COMMITTEE EVALUATES AND PROVIDES ASSISTANCE TO ANY
15 LICENSED MASSAGE THERAPIST AND CERTIFIED MASSAGE PRACTITIONER IN NEED
16 OF TREATMENT AND REHABILITATION FOR ALCOHOLISM, DRUG ABUSE, CHEMICAL
17 DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL CONDITION.

18 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
19 PROCEEDINGS, RECORDS, AND FILES OF THE MASSAGE THERAPIST REHABILITATION
20 COMMITTEE ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN
21 ANY CIVIL ACTION ARISING OUT OF MATTERS THAT ARE BEING OR HAVE BEEN
22 REVIEWED AND EVALUATED BY THE MASSAGE THERAPIST REHABILITATION
23 COMMITTEE.

24 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO ANY
25 RECORD OR DOCUMENT THAT IS CONSIDERED BY THE PHYSICAL THERAPIST
26 REHABILITATION COMMITTEE AND THAT OTHERWISE WOULD BE SUBJECT TO
27 DISCOVERY AND INTRODUCTION INTO EVIDENCE IN A CIVIL TRIAL.

28 (3) FOR THE PURPOSES OF THIS SUBSECTION, CIVIL ACTION DOES NOT
29 INCLUDE A PROCEEDING BEFORE THE BOARD OR JUDICIAL REVIEW OF A
30 PROCEEDING BEFORE THE BOARD.

31 (E) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF
32 JURISDICTION OF A MASSAGE THERAPIST REHABILITATION COMMITTEE IS NOT
33 CIVILLY LIABLE FOR ANY ACTION AS A MEMBER OF THE MASSAGE THERAPIST
34 REHABILITATION COMMITTEE OR FOR GIVING INFORMATION TO, PARTICIPATING IN,
35 OR CONTRIBUTING TO THE FUNCTION OF THE MASSAGE THERAPIST
36 REHABILITATION COMMITTEE.

1 SUBTITLE 4. MISCELLANEOUS.

2 6.5-401.

3 (A) THE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR
4 ADVERTISING OR SOLICITING BY LICENSED MASSAGE THERAPISTS AND CERTIFIED
5 MASSAGE PRACTITIONERS.

6 (B) FOR PURPOSES OF THIS SECTION, NOTICES MAILED TO CLIENTS TO
7 INFORM THEM OF TIMES FOR PERIODIC APPOINTMENTS ARE NOT ADVERTISING OR
8 SOLICITING.

9 6.5-402.

10 A LICENSED MASSAGE THERAPIST OR A CERTIFIED MASSAGE PRACTITIONER
11 MAY USE A TRADE NAME IN CONNECTION WITH THE PRACTICE OF MASSAGE
12 THERAPY PROVIDED THAT:

13 (1) THE USE OF THE TRADE NAME IS NOT DECEPTIVE OR MISLEADING;

14 (2) THE ADVERTISEMENT IN WHICH THE TRADE NAME APPEARS
15 INCLUDES THE NAME OF THE LICENSED MASSAGE THERAPIST OR CERTIFIED
16 MASSAGE PRACTITIONER OR THE NAME OF THE BUSINESS ENTITY PROVIDING THE
17 MASSAGE SERVICES BEING ADVERTISED AS LONG AS THE ADVERTISEMENT
18 INCLUDES THE NAME OF A LICENSED MASSAGE THERAPIST OR CERTIFIED MASSAGE
19 PRACTITIONER;

20 (3) THE NAME OF THE LICENSED MASSAGE THERAPIST OR CERTIFIED
21 MASSAGE PRACTITIONER PROVIDING MASSAGE SERVICES APPEARS ON THE BILLING
22 INVOICES, STATIONERY, AND ON ANY RECEIPT GIVEN TO A PATIENT;

23 (4) TREATMENT RECORDS ARE MAINTAINED THAT CLEARLY IDENTIFY
24 THE LICENSED MASSAGE THERAPIST OR CERTIFIED MASSAGE PRACTITIONER WHO
25 HAS PERFORMED THE MASSAGE SERVICE FOR THE CLIENT; AND

26 (5) THE USE OF A TRADE NAME IS PREAPPROVED BY THE BOARD
27 BEFORE USE.

28 6.5-403.

29 A LICENSED MASSAGE THERAPIST AND A CERTIFIED MASSAGE PRACTITIONER
30 SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-636 OF THE
31 COURTS ARTICLE FOR REVIEWING THE FEES OR CHARGES FOR SERVICES OF
32 ANOTHER LICENSED MASSAGE THERAPIST OR CERTIFIED MASSAGE PRACTITIONER
33 IN THIS OR ANY OTHER STATE.

SUBTITLE 5. PROHIBITED ACTS.

2 6.5-501.

3 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT
4 PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE THERAPY,
5 MASSAGE, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS IN
6 THIS STATE UNLESS LICENSED OR CERTIFIED BY THE BOARD.

7 6.5-502.

8 (A) AN INDIVIDUAL WHO IS NOT A LICENSED MASSAGE THERAPIST OR A
9 CERTIFIED MASSAGE PRACTITIONER UNDER THIS SUBTITLE MAY NOT ADVERTISE
10 OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER REPRESENTATION
11 THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE THERAPY, MYOTHERAPY, OR
12 ANY SYNONYM OR DERIVATION OF THESE TERMS.

13 (B) AN INDIVIDUAL WHO IS A CERTIFIED MASSAGE PRACTITIONER UNDER
14 THIS SUBTITLE OR A BUSINESS ENTITY THAT EMPLOYS CERTIFIED MASSAGE
15 PRACTITIONERS UNDER THIS SUBTITLE MAY NOT ADVERTISE TO THE PUBLIC THAT
16 THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES HEALTH-RELATED THERAPEUTIC
17 MASSAGE SERVICES.

18 (C) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A PERSON MAY
19 NOT USE THE TITLE "MASSAGE THERAPIST", "MT", "LICENSED MASSAGE THERAPIST",
20 "CMT", "MASSAGE PRACTITIONER", "MP", "LICENSED MASSAGE PRACTITIONER", OR
21 "RMP", OR ANY OTHER TERM OR TITLE WITH THE INTENT TO REPRESENT THAT THE
22 PERSON PRACTICES MASSAGE THERAPY.

23 6.5-503.

24 A PERSON MAY NOT BUY, SELL, OR FRAUDULENTLY OBTAIN:

25 (1) A LICENSE; OR

26 (2) ANY DIPLOMA OR DEGREE REQUIRED UNDER § 6.5-301 OF THIS
27 TITLE.

28 6.5-504.

29 (A) A PERSON WHO PRACTICES OR ATTEMPTS TO PRACTICE MASSAGE
30 THERAPY WITHOUT A LICENSE IN VIOLATION OF § 6.5-501 OF THIS SUBTITLE OR
31 REPRESENTS TO THE PUBLIC IN VIOLATION OF § 6.5-502 OF THIS SUBTITLE THAT THE
32 PERSON IS AUTHORIZED TO PRACTICE MASSAGE THERAPY IS GUILTY OF A
33 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

34 (1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$2,000 OR
35 IMPRISONMENT NOT EXCEEDING 6 MONTHS; OR

1 (2) FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$6,000 OR
2 IMPRISONMENT NOT EXCEEDING 1 YEAR.

3 (B) A PERSON WHO IS CONVICTED UNDER THE PROVISIONS OF THIS SECTION
4 SHALL REIMBURSE THE BOARD FOR THE DIRECT COSTS OF THE BOARD, INCLUDING
5 COURT REPORTING SERVICES AND EXPERT WITNESS FEES, INCURRED AS A RESULT
6 OF A PROSECUTION UNDER THIS SECTION.

7 SUBTITLE 6. COUNTY GOVERNMENT.

8 6.5-601.

9 (A) (1) IN CHARLES COUNTY AND WASHINGTON COUNTY, AN INDIVIDUAL
10 MAY NOT PERFORM A MASSAGE OR OFFER TO PERFORM A MASSAGE ON ANOTHER
11 PERSON FOR COMPENSATION UNLESS THE INDIVIDUAL WHO PERFORMS THE
12 MASSAGE OR OFFERS TO PERFORM A MASSAGE IS A LICENSED MASSAGE THERAPIST
13 OR CERTIFIED MASSAGE PRACTITIONER.

14 (2) A LAW ENFORCEMENT OFFICER IN CHARLES COUNTY OR
15 WASHINGTON COUNTY MAY DEMAND PROOF OF LICENSURE OR CERTIFICATION.

16 (B) ANY INDIVIDUAL WHO VIOLATES A PROVISION OF THIS SECTION IS
17 GUILTY OF A MISDEMEANOR AND ON CONVICTION SHALL BE SUBJECT TO A FINE
18 NOT EXCEEDING \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH.

19 6.5-602.

20 (A) IN CHARLES COUNTY AND WASHINGTON COUNTY, THE COUNTY
21 COMMISSIONERS MAY ADOPT ORDINANCES OR REGULATIONS RELATING TO
22 MASSAGE ESTABLISHMENTS AND THE PRACTICES OF MASSAGE THERAPISTS,
23 MASSAGE PRACTITIONERS, AND ANY OTHER INDIVIDUALS WHO PROVIDE MASSAGE
24 FOR COMPENSATION.

25 (B) (1) THE CHARLES COUNTY COMMISSIONERS SHALL PROVIDE THAT THE
26 DIRECTOR OF THE CHARLES COUNTY HEALTH DEPARTMENT AND THE OFFICE OF
27 THE SHERIFF FOR CHARLES COUNTY HAVE THE AUTHORITY TO CARRY OUT THE
28 PROVISIONS OF THE ORDINANCES OR REGULATIONS ADOPTED UNDER SUBSECTION
29 (A) OF THIS SECTION.

30 (2) THE WASHINGTON COUNTY COMMISSIONERS SHALL PROVIDE THAT
31 THE WASHINGTON COUNTY HEALTH OFFICER AND THE OFFICE OF THE SHERIFF FOR
32 WASHINGTON COUNTY HAVE THE AUTHORITY TO CARRY OUT THE PROVISIONS OF
33 THE ORDINANCES OR REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS
34 SECTION.

35 SUBTITLE 7. SHORT TITLE; TERMINATION OF TITLE.

36 6.5-701.

37 THIS TITLE MAY BE CITED AS THE "MARYLAND MASSAGE THERAPY ACT".

1 6.5-702.

2 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
3 PROGRAM EVALUATION ACT, THIS TITLE AND ALL RULES AND REGULATIONS
4 ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY
5 1, 2015.

6 **Article - State Government**

7 8-403.

8 (a) On or before December 15 of the 2nd year before the evaluation date of a
9 governmental activity or unit, the Legislative Policy Committee, based on a
10 preliminary evaluation, may waive as unnecessary the evaluation required under this
11 section.

12 (b) Except as otherwise provided in subsection (a) of this section, on or before
13 the evaluation date for the following governmental activities or units, an evaluation
14 shall be made of the following governmental activities or units and the statutes and
15 regulations that relate to the governmental activities or units:

16 (42) MASSAGE THERAPY EXAMINERS, STATE BOARD OF (§ 6.5-201 OF THE
17 HEALTH OCCUPATIONS ARTICLE: JULY 1, 2014);

18 SECTION 4. AND BE IT FURTHER ENACTED, That the terms of the initial
19 members of the State Board of Massage Therapy Examiners shall expire as follows:

- 20 (1) two members in 2006;
- 21 (2) two members in 2007; and
- 22 (3) three members in 2008.

23 SECTION 5. AND BE IT FURTHER ENACTED, That on July 1, 2005, all the
24 functions, powers, duties, equipment, assets, liabilities, records, and employees of the
25 Massage Therapy Advisory Committee and those functions, powers, duties,
26 equipment, assets, liabilities, records, and employees of the State Board of
27 Chiropractic Examiners related to the licensure and certification of massage
28 therapists and massage practitioners shall be transferred to the State Board of
29 Massage Therapy Examiners.

30 SECTION 6. AND BE IT FURTHER ENACTED, That on July 1, 2005, an
31 individual who holds a certificate or registration issued by the State Board of
32 Chiropractic Examiners may qualify for the equivalent license and certificate issued
33 by the State Board of Massage Therapy Examiners without meeting the education,
34 experience, and examination requirements of Title 6.5, Subtitle 3 of the Health
35 Occupations Article as enacted by this Act if the individual qualifies for the certificate
36 or registration before the expiration of the individual's certificate or registration.

1 SECTION 7. AND BE IT FURTHER ENACTED, That on July 1, 2005, an
2 individual who holds a certificate or registration issued by the State Board of
3 Chiropractic Examiners, in all respects, shall be considered licensed or certified by
4 the State Board of Massage Therapy Examiners and, subject to the provisions of this
5 Act, for the remainder of the term of the individual's licensure or certification. On
6 expiration of the individual's licensure or certificate, the individual may qualify for
7 renewal of a license or certificate under § 6.5-304 of the Health Occupations Article
8 as enacted by this Act as if the individual has held a certificate or registration issued
9 by the State Board of Chiropractic Examiners.

10 SECTION 8. AND BE IT FURTHER ENACTED, That on or after July 1, 2005,
11 if an individual holds a certificate or registration issued by the State Board of
12 Chiropractic Examiners and the individual fails to timely renew the certificate or
13 registration, the individual may qualify for reinstatement of a license or certificate
14 under § 6.5-306 of the Health Occupations Article as enacted by this Act as if the
15 individual had held a license or certificate issued by the State Board of Massage
16 Therapy Examiners.

17 SECTION 9. AND BE IT FURTHER ENACTED, That before July 1, 2005, an
18 individual who has completed or partially completed any education, experience, or
19 examination requirements for a certificate or registration to be issued by the State
20 Board of Chiropractic Examiners shall be considered to have completed or partially
21 completed the same requirement for a license or certificate issued by the State Board
22 of Massage Therapy Examiners.

23 SECTION 10. AND BE IT FURTHER ENACTED, That the State Board of
24 Massage Therapy Examiners shall report to the Senate Education, Health, and
25 Environmental Affairs Committee and the House Health and Government Operations
26 Committee, on or before December 31, 2006, in accordance with § 2-1246 of the State
27 Government Article, assessing the appropriateness of the fees charged to licensed
28 massage therapists and certified massage practitioners and the ability of the Board to
29 be self-sufficient given the greater workload.

30 SECTION 11. AND BE IT FURTHER ENACTED, That Sections 1, 2, 3, and 4 of
31 this Act shall take effect July 1, 2005.

32 SECTION 12. AND BE IT FURTHER ENACTED, That, except as provided in
33 Section 11 of this Act, this Act shall take effect October 1, 2004.