

SENATE BILL 960

J2

8lr3326
CF HB 1563

By: **Senator Klausmeier**

Introduced and read first time: February 28, 2008

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, March 3, 2008

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Board of Chiropractic and Massage Therapy Examiners – Licensure of**
3 **Massage Therapists**

4 FOR the purpose of renaming the State Board of Chiropractic Examiners to be the
5 State Board of Chiropractic and Massage Therapy Examiners; providing for the
6 licensure of massage therapists by the Board; increasing the number of the
7 members of the Board; adding a certain number of licensed chiropractor
8 members and licensed massage therapist members to the Board; requiring the
9 Governor to appoint certain massage therapist members with the advice and
10 consent of the Senate from a certain list submitted by a certain association;
11 providing for the qualifications of the massage therapist Board members;
12 amending qualifications for certain consumer members of the Board; requiring
13 the terms of Board members to be staggered; renaming the State Board of
14 Chiropractic Examiners Fund to be the State Board of Chiropractic and
15 Massage Therapy Examiners Fund; establishing certain violations and
16 penalties; substituting licensure for certification as the professional credential
17 for massage therapists; requiring the Board to adopt certain regulations
18 regarding the licensure of massage therapists; repealing certain provisions
19 regarding the Massage Therapy Advisory Committee; repealing certain
20 provisions authorizing certain individuals to practice massage therapy without
21 a license or without meeting certain qualifications for a license; authorizing the
22 Board to waive certain qualifications for licensure as a massage therapist under
23 certain circumstances; requiring the Board to adopt certain rules and
24 regulations to establish certain standards for advertising or soliciting by
25 licensed massage therapists or registered massage practitioners; providing that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain mailed notices are not advertisements or solicitations; authorizing
 2 licensed massage therapists and registered massage practitioners to use a
 3 certain trade name under certain circumstances; requiring the Board to issue
 4 licenses to certified massage therapists at the time the certificate holder's
 5 certificate expires in accordance with certain renewal requirements; authorizing
 6 certain certified massage therapists to continue to practice massage therapy
 7 until a certificate holder's license is issued; making certain technical changes;
 8 and generally relating to the State Board of Chiropractic and Massage Therapy
 9 Examiners and the licensure of massage therapists.

10 BY repealing and reenacting, with amendments,
 11 Article – Health Occupations
 12 Section 3–201, 3–202, 3–206(a), 3–315, 3–316, 3–316.1, 3–501 through 3–503,
 13 3–506, 3–5A–01 through 3–5A–03, 3–5A–05 through 3–5A–10, and
 14 3–5A–12 through 3–5A–14
 15 Annotated Code of Maryland
 16 (2005 Replacement Volume and 2007 Supplement)

17 BY repealing
 18 Article – Health Occupations
 19 Section 3–5A–04 and 3–5A–11
 20 Annotated Code of Maryland
 21 (2005 Replacement Volume and 2007 Supplement)

22 BY adding to
 23 Article – Health Occupations
 24 Section 3–5A–13
 25 Annotated Code of Maryland
 26 (2005 Replacement Volume and 2007 Supplement)

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

29 **Article – Health Occupations**

30 3–201.

31 There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners in
 32 the Department.

33 3–202.

34 (a) (1) The Board consists of [7] **11** members.

35 (2) Of the [7] **11** members:

36 (i) [5] **6** shall be licensed chiropractors; [and]

1 **(2) A LICENSED MASSAGE THERAPIST OF INTEGRITY AND ABILITY**
2 **WHO IS IN ACTIVE PRACTICE;**

3 **(3) A GRADUATE OF A BOARD-APPROVED COURSE IN MASSAGE**
4 **THERAPY; AND**

5 **(4) AN INDIVIDUAL WHO HAS PRACTICED MASSAGE THERAPY IN**
6 **THIS STATE FOR AT LEAST 5 CONSECUTIVE YEARS.**

7 **[(c)](D)** Each consumer member of the Board:

8 (1) Shall be a member of the general public;

9 (2) May not be or ever have been a chiropractor **OR MASSAGE**
10 **THERAPIST** or in training to become a chiropractor **OR MASSAGE THERAPIST;**

11 (3) May not have a household member who is a chiropractor **OR**
12 **MASSAGE THERAPIST** or in training to become a chiropractor **OR MASSAGE**
13 **THERAPIST;**

14 (4) May not participate or ever have participated in a commercial or
15 professional field related to chiropractic **OR MASSAGE THERAPY;**

16 (5) May not have a household member who participates in a
17 commercial or professional field related to chiropractic **OR MASSAGE THERAPY;** and

18 (6) May not have had, within 2 years before appointment, a
19 substantial financial interest in a person regulated by the Board.

20 **[(d)](E)** (1) In addition to the requirements of [subsection (b)]
21 **SUBSECTIONS (B) AND (C)** of this section, each chiropractic **AND MASSAGE**
22 **THERAPY** member of the Board shall be a licensed chiropractor **OR LICENSED**
23 **MASSAGE THERAPIST** whose license is in good standing with the Board.

24 (2) For purposes of this subsection, “good standing” means that the
25 Board has not reprimanded the licensee, suspended or revoked the license of the
26 chiropractor **OR MASSAGE THERAPIST**, or placed the licensee on probation within 5
27 years prior to or after confirmation to the Board.

28 **[(e)](F)** While a member of the Board, a consumer member may not have a
29 substantial financial interest in a person regulated by the Board.

30 **[(f)](G)** Before taking office, each appointee to the Board shall take the
31 oath required by Article I, § 9 of the State Constitution.

1 [(g)](H) (1) The term of a member is 4 years.

2 (2) The terms of members are staggered as required by the terms
3 provided for members of the Board on [July 1, 1986] **OCTOBER 1, 2008**.

4 (3) At the end of a term, a member continues to serve until a successor
5 is appointed and qualifies.

6 (4) A member who is appointed after a term has begun serves only for
7 the rest of the term and until a successor is appointed and qualifies.

8 (5) The Governor shall fill any vacancy on the Board within 60 days of
9 the date of the vacancy.

10 (6) A member may not serve more than 2 consecutive full terms.

11 [(h)](I) (1) The Governor may remove a member for incompetence or
12 misconduct.

13 (2) Upon the recommendation of the Secretary, the Governor may
14 remove a member whom the Secretary finds to have been absent from 2 successive
15 Board meetings without adequate reason.

16 3-206.

17 (a) There is a State Board of Chiropractic **AND MASSAGE THERAPY**
18 Examiners Fund.

19 3-315.

20 (a) Except as otherwise provided in the Administrative Procedure Act, before
21 the Board takes any action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS**
22 **TITLE**, it shall give the individual against whom the action is contemplated an
23 opportunity for a hearing before the Board.

24 (b) The Board shall give notice and hold the hearing in accordance with the
25 Administrative Procedure Act.

26 (c) The individual may be represented at the hearing by counsel.

27 (d) Over the signature of an officer or the administrator of the Board, the
28 Board may issue subpoenas and administer oaths in connection with any investigation
29 under this title and any hearings or proceedings before it.

30 (e) If, without lawful excuse, a person disobeys a subpoena from the Board or
31 an order by the Board to take an oath or to testify or answer a question, then, on

1 petition of the Board, a court of competent jurisdiction shall compel compliance with
 2 the subpoena and may punish the person as for contempt of court.

3 (f) If after due notice the individual against whom the action is
 4 contemplated fails or refuses to appear, nevertheless the Board may hear and
 5 determine the matter.

6 (g) If, after a hearing, a chiropractor **OR MASSAGE THERAPIST** is found in
 7 violation of § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, the chiropractor
 8 **OR MASSAGE THERAPIST** shall pay to the Board the costs for court reporting
 9 services.

10 3-316.

11 (a) Except as provided in this section for an action under § 3-313 of this
 12 subtitle **OR § 3-5A-11 OF THIS TITLE**, any person aggrieved by a final decision of the
 13 Board in a contested case, as defined in the Administrative Procedure Act, may:

14 (1) Appeal that decision to the Board of Review; and

15 (2) Then take any further appeal allowed by the Administrative
 16 Procedure Act.

17 (b) (1) Any person aggrieved by a final decision of the Board under §
 18 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE** may not appeal to the Secretary
 19 or Board of Review but may take a direct judicial appeal.

20 (2) The appeal shall be made as provided for judicial review of final
 21 decisions in the Administrative Procedure Act.

22 3-316.1.

23 (a) An action may be maintained in the name of this State or the Board to
 24 enjoin:

25 (1) The unauthorized practice of chiropractic **OR MASSAGE THERAPY**;
 26 or

27 (2) Conduct that is a ground for disciplinary action under § 3-313 of
 28 this subtitle **OR § 3-5A-11 OF THIS TITLE**.

29 (b) An action under this section may be brought by:

30 (1) The Board, in its own name;

31 (2) The Attorney General, in the name of this State; or

1 (3) A State’s Attorney, in the name of this State.

2 (c) An action under this section shall be brought in the county where the
3 defendant:

4 (1) Resides; or

5 (2) Engages in the acts sought to be enjoined.

6 (d) (1) Except as provided in paragraph (2) of this subsection, an action
7 under this section may not be brought against an individual who is authorized to
8 practice a health occupation under this article.

9 (2) An action under this section may be brought against an individual
10 who is authorized to practice chiropractic **OR MASSAGE THERAPY** under this title.

11 (e) Proof of actual damage or that any person will sustain any damage if an
12 injunction is not granted is not required for an action under this section.

13 (f) An action under this section is in addition to and not instead of criminal
14 prosecution for:

15 (1) [the] **THE** unauthorized practice of chiropractic under § 3–501 of
16 this title or disciplinary action under § 3–313 of this subtitle; **OR**

17 (2) **THE UNAUTHORIZED PRACTICE OF MASSAGE THERAPY**
18 **UNDER § 3–501 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 3–5A–11 OF**
19 **THIS TITLE.**

20 3–501.

21 (A) Except as otherwise provided in § 3–404 of this title, a person may not
22 practice, attempt to practice, or offer to practice chiropractic in this State unless
23 licensed by the Board.

24 (B) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL**
25 **MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE**
26 **THERAPY, MASSAGE, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF**
27 **THESE TERMS IN THIS STATE UNLESS LICENSED OR REGISTERED BY THE**
28 **BOARD.**

29 3–502.

30 (a) (1) Unless authorized to practice chiropractic under this title, a person
31 may not represent to the public by title, by description of services, methods, or

1 procedures, or otherwise, that the person is authorized to practice chiropractic in this
2 State.

3 [(b)] (2) Unless authorized to practice under this title, a person may not use
4 the title “chiropractor”, or “D.C.”, or any other term or title with the intent to
5 represent that the person practices chiropractic.

6 (B) (1) AN INDIVIDUAL WHO IS NOT A LICENSED MASSAGE THERAPIST
7 OR REGISTERED AS A MASSAGE PRACTITIONER UNDER THIS TITLE MAY NOT
8 ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER
9 REPRESENTATION THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE
10 THERAPY, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS.

11 (2) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A
12 PERSON MAY NOT USE THE TITLE “MASSAGE THERAPIST”, “MT”, “LICENSED
13 MASSAGE THERAPIST”, “LMT”, “MASSAGE PRACTITIONER”, “MP”,
14 “REGISTERED MASSAGE PRACTITIONER”, “RMP”, OR ANY OTHER TERM OR
15 TITLE WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES
16 MASSAGE THERAPY.

17 (C) AN INDIVIDUAL WHO IS A REGISTERED MASSAGE PRACTITIONER
18 UNDER THIS TITLE OR A BUSINESS ENTITY THAT EMPLOYS REGISTERED
19 MASSAGE PRACTITIONERS UNDER THIS TITLE MAY NOT ADVERTISE TO THE
20 PUBLIC THAT THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES
21 HEALTH-RELATED THERAPEUTIC MASSAGE SERVICES.

22 (D) (1) IN CHARLES COUNTY AND WASHINGTON COUNTY, AN
23 INDIVIDUAL MAY NOT PERFORM A MASSAGE OR OFFER TO PERFORM A MASSAGE
24 ON ANOTHER PERSON FOR COMPENSATION UNLESS THE INDIVIDUAL WHO
25 PERFORMS THE MASSAGE OR OFFERS TO PERFORM A MASSAGE IS A LICENSED
26 MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER.

27 (2) A LAW ENFORCEMENT OFFICER IN CHARLES COUNTY OR
28 WASHINGTON COUNTY MAY DEMAND PROOF OF LICENSURE OR REGISTRATION.

29 3-503.

30 A person may not buy, sell, or fraudulently obtain:

31 (1) A license; or

32 (2) Any diploma or degree required under § 3-302 OR § 3-5A-06 of
33 this title.

34 3-506.

1 (a) A person who practices or attempts to practice chiropractic **OR MASSAGE**
2 **THERAPY** without a license in violation of § 3–501 of this subtitle or represents to the
3 public in violation of § 3–502 of this subtitle that the person is authorized to practice
4 chiropractic **OR MASSAGE THERAPY** is guilty of a misdemeanor and on conviction is
5 subject to:

6 (1) For a first offense, a fine not exceeding \$2,000 or imprisonment not
7 exceeding 6 months; or

8 (2) For a subsequent offense, a fine not exceeding \$6,000 or
9 imprisonment not exceeding 1 year.

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

14 3–5A–01.

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

16 (b) “Board” means the State Board of Chiropractic **AND MASSAGE**
17 **THERAPY** Examiners.

18 [(c) “Certificate” means, unless the context requires otherwise, a certificate
19 issued by the Board to practice massage therapy.

20 (d) “Certified massage therapist” means an individual who is certified by the
21 Board to practice massage therapy.]

22 [(e)](C) “Health care facility” has the meaning stated in § 19–114(d) of the
23 Health – General Article.

24 (D) **“LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A**
25 **LICENSE ISSUED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

26 (E) **“LICENSED MASSAGE THERAPIST” MEANS AN INDIVIDUAL WHO IS**
27 **LICENSED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

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

1 (2) “Massage therapy” does not include:

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

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

5 (iii) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
6 **SUBSECTION, THE** laying on of hands, consisting of pressure or movement on a fully
7 clothed individual, to specifically affect the electromagnetic energy or energetic field of
8 the human body.

9 (3) **“MASSAGE THERAPY” INCLUDES THE LAYING ON OF HANDS,**
10 **CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL,**
11 **TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY OR ENERGETIC**
12 **FIELD OF THE HUMAN BODY IF THIS PRACTICE INCLUDES USE OF THE MANUAL**
13 **TECHNIQUES SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

14 [(3)] (4) In paragraph (2)(iii) of this subsection, “fully clothed” does
15 not require the wearing of footwear.

16 [(4)] (5) The provisions of paragraph (2) of this subsection do not
17 preclude the application of the modalities described in paragraph (1) of this subsection
18 to an individual who has an injury.

19 [(g) “Massage Therapy Advisory Committee” means the Committee
20 established under § 3–5A–04 of this subtitle.]

21 [(h)] (G) “Practice massage therapy” means to engage professionally and for
22 compensation in massage therapy.

23 [(i)] (H) “Practice non–therapeutic massage” means to engage
24 professionally and for compensation in massage therapy in a setting that is not a
25 health care facility.

26 [(j)] (I) “Registered massage practitioner” means an individual who is
27 registered by the Board to practice non–therapeutic massage.

28 [(k)] (J) “Registration” means, unless the context requires otherwise, a
29 registration issued by the Board to practice non–therapeutic massage.

30 3–5A–02.

31 The Board shall adopt regulations for the:

1 (1) [Certification] **LICENSURE** and practice of massage therapists;
2 and

3 (2) Registration and practice of massage practitioners.

4 3-5A-03.

5 (a) (1) The Board shall set reasonable fees for the issuance and renewal of
6 [certificates] **LICENSES** and registrations and the other services it provides to
7 massage therapists.

8 (2) The fees charged shall be set so as to produce funds to approximate
9 the cost of maintaining the [certification] **LICENSURE** program, registration program,
10 and the other services provided to massage therapists.

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

13 (2) The Comptroller shall distribute all fees to the State Board of
14 Chiropractic **AND MASSAGE THERAPY** Examiners Fund established under § 3-206 of
15 this title.

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

19 [3-5A-04.

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

22 (2) The Committee shall consist of six members appointed by the
23 Board.

24 (3) Of the six members:

25 (i) Two shall be licensed chiropractors; and

26 (ii) Four shall be certified massage therapists.

27 (b) In addition to the powers and duties set forth elsewhere in this subtitle,
28 the Advisory Committee shall:

29 (1) Develop and recommend to the Board regulations to carry out the
30 provisions of this subtitle;

1 (2) Develop and recommend to the Board a code of ethics for the
 2 practice of massage therapy for adoption by the Board;

3 (3) Develop and recommend to the Board the requirements for:

4 (i) Certification as a massage therapist; and

5 (ii) Registration as a massage practitioner;

6 (4) Evaluate the credentials of applicants and recommend to the
 7 Board certification of applicants who fulfill the requirements for:

8 (i) A certificate to practice massage therapy; or

9 (ii) A registration to practice non-therapeutic massage;

10 (5) Consider complaints brought to the Board involving certified
 11 massage therapists or registered massage practitioners and recommend to the Board
 12 the appropriate disciplinary action;

13 (6) Evaluate education programs in massage therapy for approval by
 14 the Board;

15 (7) Keep a record of its proceedings; and

16 (8) Submit an annual report to the Board.]

17 [~~3-5A-05.~~] **3-5A-04.**

18 [(a) (1)] Except as otherwise provided in this subtitle, an individual shall
 19 be:

20 [(i) (1)] [~~Certified~~] **LICENSED** by the Board before the
 21 individual may practice massage therapy in this State; or

22 [(ii) (2)] Registered by the Board before the individual may
 23 practice non-therapeutic massage in this State.

24 **3-5A-05.**

25 [(2)] This [section] **SUBTITLE** does not apply to:

26 [(i) (1)] A student enrolled in an approved education program
 27 as determined by the Board while practicing massage therapy in that program;

1 [(ii)] (2) An individual permitted to practice massage therapy
 2 under regulations adopted by the Board, if the individual[:

3 1. Otherwise] **OTHERWISE** has qualified to practice
 4 massage therapy in any other state or country that has substantially similar
 5 requirements for authorization to practice massage therapy and the individual is in
 6 this State for no more than 7 days[; or

7 2. Has an application for a certificate pending before the
 8 Board but has not taken the examination required under this section or has taken an
 9 examination under this section, but the results of the examination are not yet known];

10 [(iii)] (3) A family member practicing massage therapy on
 11 another family member;

12 [(iv)] (4) An athletic trainer while functioning in the course of
 13 the athletic trainer’s professional capacity;

14 [(v)] (5) An individual employed by the federal government to
 15 practice massage therapy while practicing within the scope of the individual’s
 16 employment; or

17 [(vi)] (6) An individual working in a beauty salon:

18 [1.] (I) For which the person who operates the beauty
 19 salon has obtained a permit from the State Board of Cosmetology as required under §
 20 5–501 of the Business Occupations and Professions Article; and

21 [2.] (II) In which the individual is providing
 22 cosmetology and esthetic services, including the application and removal of skin or
 23 skin care products.

24 **3–5A–06.**

25 [(b)] (A) To qualify for a [certificate] **LICENSE**, an applicant shall be an
 26 individual who:

27 (1) Is of good moral character;

28 (2) Is at least 18 years old;

29 [(3)] (i) ~~After January 1, 2002, has~~ **HAS** satisfactorily completed at
 30 least 60 credit hours of education at an institution of higher education as defined in §
 31 10–101 of the Education Article and as approved by the Board and the Maryland
 32 Higher Education Commission; ~~or~~

1 [(ii) On or after March 1, 2004, enrolled in a school approved by
2 the Board at the time of enrollment and graduated from that school no later than
3 December 31, 2004;]

4 ~~[(4)] (3)~~ Has completed 500 hours of education in a Board approved
5 program for the study of massage therapy that includes the following areas of content:

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

10 ~~[(5)] (4)~~ Has passed an examination approved by the Board.

11 [(c)] (B) To qualify for registration, an applicant shall be an individual who:

- 12 (1) Is of good moral character;
- 13 (2) Is at least 18 years old;
- 14 (3) Has completed 500 hours of education in a Board approved
15 program for the study of massage therapy that includes the following 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 [(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 subtitle
23 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

- 1 (iii) 1. Completes a Board approved program in the study of
 2 massage therapy; or
- 3 2. Passes an examination approved by the Board.

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

6 **3-5A-07.**

7 [(e) [(1) (A) Subject to the provisions of this [subsection] SECTION, the
 8 Board may waive any requirement of this subtitle for an applicant who is registered,
 9 certified, or licensed to practice massage therapy in another state.

10 [(2) (B) The Board may grant a waiver under this [subsection]
 11 SECTION only if the applicant:

12 [(i) (1) Pays the application fee set by the Board; and

13 [(ii) (2) Provides adequate evidence that the applicant:

14 [1.] (I) Has completed educational requirements that
 15 the Board determines to be equivalent to the Board approved educational
 16 requirements in this State; AND

17 [2.] (II) 1. At the time the applicant became certified,
 18 registered, or licensed in the other state, passed in that state or any other state an
 19 examination that the Board determines to be equivalent to the examination required
 20 in this State; [and] OR

21 2. PASSED AN EXAMINATION APPROVED BY THE
 22 BOARD; AND

23 [3.] (3) Is of good moral character.

24 [3-5A-06.] **3-5A-08.**

25 An individual who is registered to practice non-therapeutic massage under [§
 26 3-5A-05] § **3-5A-06** of this subtitle may not practice in a medical health care
 27 provider's office, hospital, or other health care facility for the purpose of providing
 28 massage.

29 [3-5A-07.] **3-5A-09.**

30 [(a) To apply for a [certificate] LICENSE OR REGISTRATION, an applicant
 31 shall:

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

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

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

6 [(b) To apply for registration, an applicant shall:

7 (1) Submit to the Board an application on the form that the Board
8 requires;

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

11 (3) Pay the application fee set by the Board.]

12 [3-5A-08.] **3-5A-10.**

13 (a) (1) A [certificate] **LICENSE** or registration expires on the date set by
14 the Board, unless the [certificate] **LICENSE** or registration is renewed for a 1-year
15 term as provided in this section.

16 (2) A [certificate] **LICENSE** or registration may not be renewed for a
17 term of longer than 2 years.

18 (b) At least 1 month before the [certificate] **LICENSE** or registration expires,
19 the Board shall send to the [certificate holder] **LICENSEE** or registration holder, by
20 first-class mail to the last known address of the [certificate holder] **LICENSEE** or
21 registration holder, a renewal notice that states:

22 (1) The date on which the current [certificate] **LICENSE** or
23 registration expires;

24 (2) The date by which the renewal application must be received by the
25 Board for the renewal to be issued and mailed before the [certificate] **LICENSE** or
26 registration expires; and

27 (3) The amount of the renewal fee.

28 (c) Before a [certificate] **LICENSE** or registration expires, the [certificate
29 holder] **LICENSEE** or registration holder periodically may renew it for an additional
30 term, if the [certificate holder] **LICENSEE** or registration holder:

1 (1) Otherwise is entitled to be [certified] **LICENSED** or registered;

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

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

5 (d) (1) Each [certificate holder] **LICENSEE** or registration holder shall
6 notify the Board in writing of any change in the name or address of the [certificate
7 holder] **LICENSEE** or registration holder within 60 days after the change occurred.

8 (2) If a [certificate holder] **LICENSEE** or registration holder fails to
9 notify the Board within the time required under this subsection, subject to the hearing
10 provisions of § 3–315 of this title, the Board may impose an administrative penalty of
11 \$100.

12 (e) [(1)] The Board shall renew the [certificate of each certificate holder]
13 **LICENSE OF EACH LICENSEE AND THE REGISTRATION OF EACH REGISTRATION**
14 **HOLDER** who meets the requirements of this section.

15 [(2) The Board shall renew the registration of each registration holder
16 who meets the requirements of this section.]

17 [3–5A–11.

18 (a) Except as otherwise provided in this subtitle, an individual may not
19 practice, attempt to practice, or offer to practice massage therapy, massage,
20 myotherapy, or any synonym or derivation of these terms in this State unless certified
21 by the Board.

22 (b) An individual who is not certified as a certified massage therapist or
23 registered as a massage practitioner under this subtitle may not advertise or claim by
24 title, abbreviation, sign, card, or any other representation that the individual practices
25 massage, massage therapy, myotherapy, or any synonym or derivation of these terms.

26 (c) An individual who is a registered massage practitioner under this
27 subtitle or a business entity that employs registered massage practitioners under this
28 subtitle may not advertise to the public that the individual or business entity provides
29 health-related therapeutic massage services.

30 (d) (1) In Charles County and Washington County, an individual may not
31 perform a massage or offer to perform a massage on another person for compensation
32 unless the individual who performs the massage or offers to perform a massage is a
33 certified massage therapist or registered massage practitioner.

34 (2) A law enforcement officer in Charles County or Washington
35 County may demand proof of certification or registration.

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

4 [3-5A-09.] **3-5A-11.**

5 (a) Subject to the hearing provisions of § 3-315 of this title, the Board may
6 deny a [certificate] **LICENSE** or registration to any applicant, reprimand any
7 [certificate holder] **LICENSEE** or registration holder, place any [certificate holder]
8 **LICENSEE** or registration holder on probation, or suspend or revoke the [certificate]
9 **LICENSE** of a [certificate holder] **LICENSEE** or the registration of a registration holder
10 if the applicant, [certificate holder] **LICENSEE**, or registration holder:

11 (1) Fraudulently or deceptively obtains or attempts to obtain a
12 [certificate] **LICENSE** or registration for the applicant or for another;

13 (2) Fraudulently or deceptively uses a [certificate] **LICENSE** or
14 registration;

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

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

21 (5) Willfully and knowingly:

22 (i) Files a false report or record of an individual under the care
23 of the [certificate] **LICENSE** holder or registration holder; or

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

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

29 (7) Provides professional services while:

30 (i) Under the influence of alcohol; or

31 (ii) Using any narcotic or controlled dangerous substance, as
32 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
33 therapeutic amounts or without valid medical indication;

- 1 (8) Does an act that is inconsistent with generally accepted
2 professional standards in the practice of massage therapy;
- 3 (9) Is negligent in the practice of massage therapy;
- 4 (10) Is professionally incompetent;
- 5 (11) Has violated any provision of this subtitle;
- 6 (12) Submits a false statement to collect a fee;
- 7 (13) Is physically or mentally incompetent;
- 8 (14) Knowingly fails to report suspected child abuse in violation of §
9 5–704 of the Family Law Article;
- 10 (15) Refuses, withholds from, denies, or discriminates against an
11 individual with regard to the provision of professional services for which the
12 [certificate holder] **LICENSEE** or registration holder is qualified to render because the
13 individual is HIV positive;
- 14 (16) Except in an emergency life–threatening situation where it is not
15 feasible or practicable, fails to comply with the Centers for Disease Control’s
16 guidelines on universal precautions;
- 17 (17) Is habitually intoxicated;
- 18 (18) Is addicted to, or habitually abuses, any narcotic or controlled
19 dangerous substance as defined in § 5–101 of the Criminal Law Article;
- 20 (19) Fails to cooperate with a lawful investigation conducted by the
21 Board;
- 22 (20) Engages in conduct that violates the professional code of ethics; or
- 23 (21) Knowingly does an act that has been determined by the Board to
24 be a violation of the Board’s regulations.
- 25 (b) If, after a hearing under § 3–315 of this title, the Board finds that there
26 are grounds under subsection (a) of this section to suspend or revoke a [certificate]
27 **LICENSE** to practice massage therapy or registration to practice non–therapeutic
28 massage, to reprimand a [certificate holder] **LICENSEE** or registration holder, or place
29 a [certificate holder] **LICENSEE** or registration holder on probation, the Board may
30 impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or
31 revoking the [certificate] **LICENSE** or registration, reprimanding the [certificate

1 holder] LICENSEE or registration holder, or placing the [certificate holder] LICENSEE
2 or registration holder on probation.

3 (c) (1) An individual whose [certificate] LICENSE or registration has been
4 suspended or revoked by the Board shall return the [certificate] LICENSE or
5 registration to the Board.

6 (2) If the suspended or revoked [certificate] LICENSE or registration
7 has been lost, the individual shall file with the Board a verified statement to that
8 effect.

9 (d) The Board shall file a notice for publication in the earliest publication of
10 the Maryland Register of each revocation or suspension of a [certificate] LICENSE or
11 registration under this section within 24 hours of the revocation or suspension.

12 [~~3-5A-10.~~] **3-5A-12.**

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

16 **3-5A-13.**

17 (A) **THE BOARD SHALL ADOPT RULES AND REGULATIONS TO ESTABLISH**
18 **STANDARDS FOR ADVERTISING OR SOLICITING BY LICENSED MASSAGE**
19 **THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS.**

20 (B) **FOR PURPOSES OF THIS SECTION, NOTICES MAILED TO PATIENTS**
21 **TO INFORM THEM OF TIMES FOR PERIODIC APPOINTMENTS ARE NOT**
22 **ADVERTISING OR SOLICITING.**

23 (C) **A LICENSED MASSAGE THERAPIST OR A REGISTERED MASSAGE**
24 **PRACTITIONER MAY USE A TRADE NAME IN CONNECTION WITH THE PRACTICE**
25 **OF MASSAGE THERAPY PROVIDED THAT:**

26 (1) **THE USE OF THE TRADE NAME IS NOT DECEPTIVE OR**
27 **MISLEADING;**

28 (2) **THE ADVERTISEMENT IN WHICH THE TRADE NAME APPEARS**
29 **INCLUDES THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED**
30 **MASSAGE PRACTITIONER OR THE NAME OF THE BUSINESS ENTITY PROVIDING**
31 **THE MASSAGE THERAPY SERVICES BEING ADVERTISED, AS LONG AS THE**
32 **ADVERTISEMENT INCLUDES THE NAME OF A LICENSED MASSAGE THERAPIST OR**
33 **REGISTERED MASSAGE PRACTITIONER;**

1 (3) THE NAME OF THE LICENSED MASSAGE THERAPIST OR
2 REGISTERED MASSAGE PRACTITIONER PROVIDING MASSAGE THERAPY
3 SERVICES APPEARS ON THE BILLING INVOICES, STATIONERY, AND ON ANY
4 RECEIPT GIVEN TO A PATIENT;

5 (4) TREATMENT RECORDS ARE MAINTAINED THAT CLEARLY
6 IDENTIFY THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE
7 PRACTITIONER WHO HAS PERFORMED THE MASSAGE THERAPY SERVICE FOR
8 THE PATIENT; AND

9 (5) THE USE OF A TRADE NAME IS PREAPPROVED BY THE BOARD
10 BEFORE USE.

11 [3-5A-12.] **3-5A-14.**

12 A health care provider licensed or certified under this article may not refer
13 patients to a person who is not a [certified] LICENSED massage therapist.

14 [3-5A-13.] **3-5A-15.**

15 Notwithstanding the fact that these services are provided within the scope of
16 their [certified] LICENSED practice, nothing in this subtitle requires a nonprofit
17 health service plan, insurer, health maintenance organization, or person acting as a
18 third party administrator to reimburse a [certified] LICENSED massage therapist or
19 registered massage practitioner for any services rendered.

20 [3-5A-14.] **3-5A-16.**

21 (a) In Charles County and Washington County, the County Commissioners
22 may adopt ordinances or regulations relating to massage establishments and the
23 practices of massage therapists, massage practitioners, and any other individuals who
24 provide massage for compensation.

25 (b) (1) The Charles County Commissioners shall provide that the Director
26 of the Charles County Health Department and the Office of the Sheriff for Charles
27 County have the authority to carry out the provisions of the ordinances or regulations
28 adopted under subsection (a) of this section.

29 (2) The Washington County Commissioners shall provide that the
30 Washington County Health Officer and the Office of the Sheriff for Washington
31 County have the authority to carry out the provisions of the ordinances or regulations
32 adopted under subsection (a) of this section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall
34 appoint one chiropractor member and three massage therapist members to the State
35 Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of

1 the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the
2 members are as follows:

3 (1) the one chiropractor member and one massage therapist member
4 shall serve for a term of 2 years which shall begin on July 1, 2009 and shall terminate
5 at the end of June 30, 2011, and the members shall serve until a successor is
6 appointed and qualifies; and

7 (2) the two massage therapist members shall serve for a term of 4
8 years which shall begin on July 1, 2009, and shall terminate at the end of June 30,
9 2013 and the members shall serve until a successor is appointed and qualifies.

10 SECTION 3. AND BE IT FURTHER ENACTED, That for individuals certified
11 by the State Board of Chiropractic Examiners before October 1, 2008, to practice
12 massage therapy:

13 (1) at the time the certificate expires, the Board shall issue a license to
14 replace the certificate in accordance with the renewal requirements under § 3-5A-10
15 of the Health Occupations Article; and

16 (2) the individual may continue to practice massage therapy as a
17 certified massage therapist until a license is issued.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.