

SENATE BILL 915

J2

3lr3215
CF HB 818

By: **Senator Klausmeier**

Introduced and read first time: February 13, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Massage Therapy – Authority to Practice**

3 FOR the purpose of requiring an individual to be registered by the State Board of
4 Chiropractic and Massage Therapy Examiners before the individual may
5 practice massage therapy in a certain setting; altering the number of hours and
6 content of certain education an applicant for a license to practice massage
7 therapy must complete to qualify for a license; repealing a certain provision of
8 law that prohibits an individual who is registered to practice non-therapeutic
9 massage from practicing in certain offices, hospitals, or facilities; altering
10 certain definitions; repealing a certain definition; making conforming changes;
11 and generally relating to the practice of massage therapy in the State.

12 BY repealing and reenacting, without amendments,
13 Article – Health Occupations
14 Section 3-5A-01(a)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Health Occupations
19 Section 3-5A-01(c), (i), and (j), 3-5A-04, 3-5A-06(a), and 3-5A-11 to be under
20 the amended subtitle “Subtitle 5A. Licensure and Registration of
21 Massage Therapists”
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2012 Supplement)

24 BY repealing
25 Article – Health Occupations
26 Section 3-5A-01(h) and 3-5A-08
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY renumbering
 2 Article – Health Occupations
 3 Section 3–5A–09 through 3–5A–16, respectively
 4 to be Section 3–5A–08 through 3–5A–15, respectively
 5 Annotated Code of Maryland
 6 (2009 Replacement Volume and 2012 Supplement)

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

9 **Article – Health Occupations**

10 Subtitle 5A. [Certification] **LICENSURE AND REGISTRATION** of Massage
 11 Therapists.

12 3–5A–01.

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

14 (c) “Health care [facility] has the meaning stated in § 19–114(d) of the
 15 Health – General Article] **SETTING” MEANS:**

16 **(1) THE OFFICE OF A HEALTH CARE PROVIDER REGULATED**
 17 **UNDER THIS ARTICLE; OR**

18 **(2) A HEALTH CARE FACILITY AS DEFINED IN § 19–114 OF THE**
 19 **HEALTH – GENERAL ARTICLE.**

20 [(h) “Practice non–therapeutic massage” means to engage professionally and
 21 for compensation in massage therapy in a setting that is not a health care facility.]

22 [(i) **(H)** “Registered massage practitioner” means an individual who is
 23 registered by the Board to practice [non–therapeutic] massage **THERAPY IN A**
 24 **SETTING THAT IS NOT A HEALTH CARE SETTING.**

25 [(j) **(I)** “Registration” means, unless the context requires otherwise, a
 26 registration issued by the Board to practice [non–therapeutic] massage **THERAPY IN**
 27 **A SETTING THAT IS NOT A HEALTH CARE SETTING.**

28 3–5A–04.

29 Except as otherwise provided in this subtitle, an individual shall be:

30 (1) Licensed by the Board before the individual may practice massage
 31 therapy in this State; or

1 (2) Registered by the Board before the individual may practice
2 [non-therapeutic] massage **THERAPY IN A SETTING THAT IS NOT A HEALTH CARE**
3 **SETTING** in this State.

4 3-5A-06.

5 (a) To qualify for a license, an applicant shall be an individual who:

6 (1) Is of good moral character;

7 (2) Is at least 18 years old;

8 (3) Has satisfactorily completed at least 60 credit hours of education at
9 an institution of higher education as defined in § 10-101 of the Education Article and
10 as approved by the Board and the Maryland Higher Education Commission;

11 (4) Has completed [500] **600** hours of education in a Board approved
12 program for the study of massage therapy that includes the following areas of content:

13 (i) Anatomy [and], physiology, **AND KINESIOLOGY**;

14 (ii) Massage theory, techniques, and practice;

15 (iii) Contraindications to massage therapy; and

16 (iv) Professional ethics; and

17 (5) Has passed an examination approved by the Board.

18 [3-5A-08.

19 An individual who is registered to practice non-therapeutic massage under §
20 3-5A-06 of this subtitle may not practice in a medical health care provider's office,
21 hospital, or other health care facility for the purpose of providing massage.]

22 3-5A-11.

23 (a) Subject to the hearing provisions of § 3-315 of this title, the Board may
24 deny a license or registration to any applicant, reprimand any licensee or registration
25 holder, place any licensee or registration holder on probation, or suspend or revoke the
26 license of a licensee or the registration of a registration holder if the applicant,
27 licensee, or registration holder:

28 (1) Fraudulently or deceptively obtains or attempts to obtain a license
29 or registration for the applicant or for another;

- 1 (2) Fraudulently or deceptively uses a license or registration;
- 2 (3) Is disciplined by a licensing, certifying, or disciplinary authority of
3 any other state or country or convicted or disciplined by a court of any state or country
4 for an act that would be grounds for disciplinary action under this section;
- 5 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
6 crime involving moral turpitude, whether or not any appeal or other proceeding is
7 pending to have the conviction or plea set aside;
- 8 (5) Willfully and knowingly:
 - 9 (i) Files a false report or record of an individual under the care
10 of the license holder or registration holder; or
 - 11 (ii) Gives any false or misleading information about a material
12 matter in an employment application;
- 13 (6) Knowingly does any act that has been determined by the Board, in
14 its regulations, to exceed the scope of practice authorized to the individual under this
15 subtitle;
- 16 (7) Provides professional services while:
 - 17 (i) Under the influence of alcohol; or
 - 18 (ii) Using any narcotic or controlled dangerous substance, as
19 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
20 therapeutic amounts or without valid medical indication;
- 21 (8) Does an act that is inconsistent with generally accepted
22 professional standards in the practice of massage therapy;
- 23 (9) Is negligent in the practice of massage therapy;
- 24 (10) Is professionally incompetent;
- 25 (11) Has violated any provision of this subtitle;
- 26 (12) Submits a false statement to collect a fee;
- 27 (13) Is physically or mentally incompetent;
- 28 (14) Knowingly fails to report suspected child abuse in violation of §
29 5–704 of the Family Law Article;

1 (15) Refuses, withholds from, denies, or discriminates against an
2 individual with regard to the provision of professional services for which the licensee
3 or registration holder is qualified to render because the individual is HIV positive;

4 (16) Except in an emergency life-threatening situation where it is not
5 feasible or practicable, fails to comply with the Centers for Disease Control and
6 Prevention's guidelines on universal precautions;

7 (17) Is habitually intoxicated;

8 (18) Is addicted to, or habitually abuses, any narcotic or controlled
9 dangerous substance as defined in § 5-101 of the Criminal Law Article;

10 (19) Fails to cooperate with a lawful investigation conducted by the
11 Board;

12 (20) Engages in conduct that violates the professional code of ethics; or

13 (21) Knowingly does an act that has been determined by the Board to
14 be a violation of the Board's regulations.

15 (b) If, after a hearing under § 3-315 of this title, the Board finds that there
16 are grounds under subsection (a) of this section to suspend or revoke a license **OR**
17 **REGISTRATION** to practice massage therapy [or registration to practice
18 non-therapeutic massage], to reprimand a licensee or registration holder, or place a
19 licensee or registration holder on probation, the Board may impose a penalty not
20 exceeding \$5,000 in lieu of or in addition to suspending or revoking the license or
21 registration, reprimanding the licensee or registration holder, or placing the licensee
22 or registration holder on probation.

23 (c) (1) An individual whose license or registration has been suspended or
24 revoked by the Board shall return the license or registration to the Board.

25 (2) If the suspended or revoked license or registration has been lost,
26 the individual shall file with the Board a verified statement to that effect.

27 (d) The Board shall file a notice for publication in the earliest publication of
28 the Maryland Register of each revocation or suspension of a license or registration
29 under this section within 24 hours of the revocation or suspension.

30 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-5A-09
31 through 3-5A-16, respectively, of Article - Health Occupations of the Annotated Code
32 of Maryland be renumbered to be Section(s) 3-5A-08 through 3-5A-15, respectively.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2013.