

HOUSE BILL 1157

J2

4lr1769

By: **Delegate Hubbard**

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2014

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of ~~requiring applicants for a license or registration from the State~~
4 ~~Board of Chiropractic and Massage Therapy Examiners to submit to a certain~~
5 ~~criminal history records check; requiring certain applicants to submit certain~~
6 ~~fingerprints and certain fees to the Criminal Justice Information System~~
7 ~~Central Repository of the Department of Public Safety and Correctional~~
8 ~~Services under certain circumstances; requiring the Central Repository to~~
9 ~~forward certain information to the Board and to certain applicants; providing~~
10 ~~that certain information is confidential and may be used only for certain~~
11 ~~purposes; authorizing the subject of a certain criminal history records check to~~
12 ~~contest the contents of a certain statement; requiring an individual to be~~
13 registered by the State Board of Chiropractic and Massage Therapy Examiners
14 before the individual may practice massage therapy in a certain setting;
15 ~~requiring an applicant for a certain license to have submitted to a certain~~
16 ~~criminal history records check to qualify for a license; altering certain~~
17 educational requirements an applicant for a license to practice massage therapy
18 must meet to qualify for a license; ~~requiring an applicant for a certain~~
19 ~~registration to have submitted to a certain criminal history records check to~~
20 ~~qualify for a registration; altering certain educational requirements an~~
21 applicant for a registration to practice massage in a certain setting must meet
22 to qualify for registration; requiring the Board to issue a license or registration
23 to an applicant who pays a certain fee and meets certain requirements;
24 requiring the Board to include certain information on each license and
25 registration that the Board issues; ~~requiring the Board to consider certain~~

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.



~~factors on receipt of the criminal history record of certain applicants in determining whether to grant a license or registration;~~ repealing a certain provision of law that prohibits an individual who is registered to practice nontherapeutic massage from practicing in certain offices, hospitals, or facilities; requiring the Board to waive certain education requirements under this Act for certain individuals licensed or registered by the Board before a certain date; altering certain definitions; repealing a certain definition; making conforming changes; and generally relating to the practice of massage therapy in the State.

10 BY repealing and reenacting, without amendments,

11 Article – Health Occupations
 12 Section 3–5A–01(a)
 13 Annotated Code of Maryland
 14 (2009 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Health Occupations
 17 Section 3–5A–01(c), (i), and (j), 3–5A–04, 3–5A–06, and 3–5A–11(b) to be under
 18 the amended subtitle “Subtitle 5A. Licensure and Registration of
 19 Massage Therapists”
 20 Annotated Code of Maryland
 21 (2009 Replacement Volume and 2013 Supplement)

22 BY adding to

23 Article – Health Occupations
 24 Section ~~3–5A–05.1~~ and 3–5A–06.1
 25 Annotated Code of Maryland
 26 (2009 Replacement Volume and 2013 Supplement)

27 BY repealing

28 Article – Health Occupations
 29 Section 3–5A–01(h) and 3–5A–08
 30 Annotated Code of Maryland
 31 (2009 Replacement Volume and 2013 Supplement)

32 BY renumbering

33 Article – Health Occupations
 34 Section 3–5A–09 through 3–5A–16, respectively
 35 to be Section 3–5A–08 through 3–5A–15, respectively
 36 Annotated Code of Maryland
 37 (2009 Replacement Volume and 2013 Supplement)

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

40 **Article – Health Occupations**

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

2 3-5A-01.

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

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

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

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

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

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

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

18 3-5A-04.

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

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

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

25 ~~3-5A-05.1.~~

26 ~~(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL~~
27 ~~JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT~~
28 ~~OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(1) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;~~

~~(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND~~

~~(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.~~

~~(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.~~

~~(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:~~

~~(1) SHALL BE CONFIDENTIAL;~~

~~(2) MAY NOT BE REDISSEMINATED; AND~~

~~(3) SHALL BE USED ONLY FOR THE LICENSING OR REGISTRATION PURPOSE AUTHORIZED BY THIS TITLE.~~

~~(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.~~

3-5A-06.

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

1 (1) Is of good moral character;

2 (2) Is at least 18 years old;

3 ~~(3) HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK IN~~
4 ~~ACCORDANCE WITH § 3-5A-05.1 OF THIS SUBTITLE;~~

5 ~~[(3)] (4)~~ Has satisfactorily completed [at]:

6 (I) AT least 60 credit hours of education at an institution of
7 higher education as defined in § 10-101 of the Education Article and as approved by
8 the Board and the Maryland Higher Education Commission OF WHICH A MINIMUM
9 OF 24 CREDIT HOURS SHALL HAVE BEEN IN ~~THE FOLLOWING APPLIED SCIENCE~~
10 ~~AREAS OF CONTENT:~~

11 ~~1. INTRODUCTION TO MASSAGE;~~

12 ~~2. STRUCTURE AND FUNCTION OF THE HUMAN~~
13 ~~BODY;~~

14 ~~3. SWEDISH MASSAGE;~~

15 ~~4. MEDICAL TERMINOLOGY;~~

16 ~~5. DEEP TISSUE MASSAGE;~~

17 ~~6. ADVANCED MASSAGE TECHNIQUES;~~

18 ~~7. KINESIOLOGY FOR MASSAGE THERAPISTS; OR~~

19 ~~8. BUSINESS FOR BODY WORKERS~~ BASIC AND
20 APPLIED SCIENCE COURSES RELATED TO HEALTH CARE; OR

21 (II) 1. AT LEAST 60 CREDIT HOURS OF EDUCATION AT AN
22 INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10-101 OF THE
23 EDUCATION ARTICLE AND AS APPROVED BY THE MARYLAND HIGHER
24 EDUCATION COMMISSION; AND

25 2. 24 HOURS OF ADVANCED MASSAGE THERAPY
26 CONTINUING EDUCATION AS APPROVED BY THE BOARD IN ~~THE FOLLOWING~~
27 ~~APPLIED SCIENCE AREAS OF CONTENT:~~

28 ~~A. INTRODUCTION TO MASSAGE;~~

- 1 ~~B. STRUCTURE AND FUNCTION OF THE HUMAN~~
 2 ~~BODY;~~
- 3 ~~C. SWEDISH MASSAGE;~~
- 4 ~~D. MEDICAL TERMINOLOGY;~~
- 5 ~~E. DEEP TISSUE MASSAGE;~~
- 6 ~~F. ADVANCED MASSAGE TECHNIQUES;~~
- 7 ~~G. KINESIOLOGY FOR MASSAGE THERAPISTS; OR~~
- 8 ~~H. BUSINESS FOR BODY WORKERS~~ BASIC AND
 9 APPLIED SCIENCE COURSES RELATED TO HEALTH CARE;

10 ~~{(4)} (5)~~ Has completed [500] **600** hours of education in a Board
 11 approved program for the study of massage therapy that includes the following areas
 12 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)} (6)~~ Has passed an examination approved by the Board.

18 (b) To qualify for registration, an applicant shall be an individual who:

- 19 (1) Is of good moral character;
- 20 (2) Is at least 18 years old;

21 ~~(3) HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK IN~~
 22 ~~ACCORDANCE WITH § 3-5A-05.1 OF THIS SUBTITLE;~~

23 ~~{(3)} (4)~~ Has completed [500] **600** hours of education in a Board
 24 approved program for the study of massage therapy that includes the following areas
 25 of content:

- 26 (i) Anatomy [and], physiology, AND KINESIOLOGY;
- 27 (ii) Massage theory, techniques, and practice;

- 1 (iii) Contraindications to massage therapy; and
 2 (iv) Professional ethics; and
 3 ~~[(4)] (5)~~ Has passed an examination approved by the Board.

4 **3-5A-06.1.**

5 (A) THE BOARD SHALL ISSUE A LICENSE OR REGISTRATION TO ANY
 6 APPLICANT WHO:

- 7 (1) PAYS A LICENSE OR REGISTRATION FEE SET BY THE BOARD;
 8 AND
 9 (2) MEETS THE REQUIREMENTS OF THIS SUBTITLE.

10 (B) THE BOARD SHALL INCLUDE ON EACH LICENSE AND REGISTRATION
 11 THAT THE BOARD ISSUES:

- 12 (1) THE SEAL OF THE BOARD; AND
 13 (2) THE KIND OF LICENSE OR REGISTRATION.

14 ~~(C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD~~
 15 ~~INFORMATION OF AN APPLICANT FOR LICENSURE OR REGISTRATION~~
 16 ~~FORWARDED TO THE BOARD IN ACCORDANCE WITH § 3-5A-05.1 OF THIS~~
 17 ~~SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR REGISTRATION,~~
 18 ~~THE BOARD SHALL CONSIDER:~~

- 19 ~~(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;~~
 20 ~~(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;~~
 21 ~~(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE~~
 22 ~~CRIME;~~
 23 ~~(IV) SUBSEQUENT WORK HISTORY;~~
 24 ~~(V) EMPLOYMENT AND CHARACTER REFERENCES; AND~~
 25 ~~(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE~~
 26 ~~APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.~~

1 ~~(2) THE BOARD MAY NOT ISSUE A LICENSE OR REGISTRATION IF~~
 2 ~~THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 3-5A-05.1~~
 3 ~~OF THIS SUBTITLE HAS NOT BEEN RECEIVED.~~

4 [3-5A-08.

5 An individual who is registered to practice non-therapeutic massage under §
 6 3-5A-06 of this subtitle may not practice in a medical health care provider's office,
 7 hospital, or other health care facility for the purpose of providing massage.]

8 3-5A-11.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
 18 Chiropractic and Massage Therapy Examiners shall waive the education requirements
 19 established under § 3-5A-06 of the Health Occupations Article, as enacted by Section
 20 1 of this Act, for an individual licensed as a massage therapist or registered as a
 21 massage practitioner by the Board before October 1, 2014.

22 ~~SECTION 3.~~ SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 3-5A-09
 23 through 3-5A-16, respectively, of Article – Health Occupations of the Annotated Code
 24 of Maryland be renumbered to be Section(s) 3-5A-08 through 3-5A-15, respectively.

25 ~~SECTION 4.~~ SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
 26 effect October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.