

HOUSE BILL 166

J2

8lr0049

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health)**

Introduced and read first time: January 17, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – State Board of Massage Therapy Examiners – Revisions**

3 FOR the purpose of clarifying that a license issued by the State Board of Massage Therapy
4 Examiners entitles an individual to provide massage therapy treatment; providing
5 that a licensed massage therapist member of the Board shall be a licensee whose
6 license is currently active; requiring the Board, on a certain basis, to provide certain
7 assistance to the Maryland Human Trafficking Task Force, law enforcement, and
8 other stakeholders involved in certain activities; exempting from licensure, under
9 certain circumstances, an individual employed by the United States military;
10 altering certain education requirements for licensure and registration by the Board;
11 requiring an individual to have a certain CPR certification at a certain level in order
12 to qualify for a license or registration by the Board; altering the number of sets of
13 fingerprints that certain individuals are required to submit to the Criminal Justice
14 Information System Central Repository to obtain a criminal history records check;
15 requiring the Central Repository to provide to the Board certain information under
16 certain circumstances; altering the circumstances under which the Board is
17 authorized to reinstate certain licenses or registrations; requiring a person to hold a
18 massage therapy establishment permit before establishing or operating a massage
19 therapy establishment in the State; requiring the Board to adopt certain regulations
20 that determine what types of entities are included and excluded from needing a
21 certain permit; providing that a separate massage therapy establishment permit is
22 required for each massage therapy establishment that a person establishes or
23 operates; requiring a massage therapy establishment to comply with certain laws,
24 rules, and regulations and meet certain standards; prohibiting a massage therapy
25 establishment from engaging in certain conduct; authorizing the Board, subject to
26 certain provisions of law, to suspend a massage therapy establishment permit under
27 certain circumstances; requiring certain persons to meet certain qualifications to
28 apply for a massage therapy establishment permit; requiring the Board to mitigate
29 the fiscal impact on certain licensees, registrants, and persons in developing certain
30 regulations; requiring the Board to issue a massage therapy establishment permit

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to certain applicants; requiring the Board to provide a certain written notice to an
 2 applicant to whom the Board denies a massage therapy establishment permit;
 3 providing that a massage therapy establishment permit authorizes the permit holder
 4 to establish and operate the massage therapy establishment while the permit is
 5 active; providing for the expiration, renewal, and term of a massage therapy
 6 establishment permit; providing that a massage therapy establishment permit is not
 7 transferable; requiring that each massage therapy establishment permit be
 8 displayed conspicuously in the massage therapy establishment for which the permit
 9 is issued; authorizing the Board to suspend or revoke a massage therapy
 10 establishment permit if the massage therapy establishment engages in certain
 11 conduct; authorizing the Board to impose a certain penalty under certain
 12 circumstances; requiring the Board to adopt regulations to set standards for the
 13 imposition of certain penalties; requiring the Board to remit certain penalties to the
 14 General Fund of the State; requiring the Board to give certain persons an
 15 opportunity for a certain hearing under certain circumstances; requiring the Board
 16 to give certain notice of and hold a certain hearing in accordance with certain
 17 provisions of law; authorizing the Board to hear and determine a certain matter
 18 under certain circumstances; authorizing certain persons to petition for judicial
 19 review under certain circumstances, in accordance with certain provisions of law;
 20 authorizing the Board to perform certain inspections of certain massage therapy
 21 establishments under certain circumstances; providing that failure to cooperate with
 22 certain inspections may result in certain actions being taken by the Board in
 23 accordance with regulations to be adopted by the Board; requiring the Board to adopt
 24 certain regulations relating to advertising by permitted massage therapy
 25 establishments; authorizing certain massage therapy establishments to use a trade
 26 name in connection with the provision of massage therapy services under certain
 27 circumstances; repealing a requirement that, under certain circumstances, a certain
 28 advertisement include the name of a licensed massage therapist or registered
 29 massage practitioner; making certain stylistic and conforming changes; defining
 30 certain terms; and generally relating to the State Board of Massage Therapy
 31 Examiners.

32 BY repealing and reenacting, with amendments,

33 Article – Health Occupations

34 Section 6–101, 6–102, 6–202(b)(1), 6–206(b), 6–301 through 6–303, 6–306,
 35 6–308(a)(8) and (9) and (b), 6–311(a), (d), and (f), 6–401(a) and (c), 6–501,
 36 6–502(a) and (c), and 6–504(a)

37 Annotated Code of Maryland

38 (2014 Replacement Volume and 2017 Supplement)

39 BY adding to

40 Article – Health Occupations

41 Section 6–3A–01 through 6–3A–13 to be under the new subtitle “Subtitle 3A.
 42 Massage Therapy Establishments”

43 Annotated Code of Maryland

44 (2014 Replacement Volume and 2017 Supplement)

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

3 **Article – Health Occupations**

4 6–101.

5 (a) In this title the following words have the meanings indicated.

6 (b) “Board” means the State Board of Massage Therapy Examiners.

7 (c) **“CONTACT HOUR” MEANS A PERIOD OF 50 MINUTES OF ACTUAL TIME A**
8 **STUDENT SPENDS IN A LECTURE, AN EDUCATIONAL COURSE, OR A LABORATORY**
9 **WHEN AN INSTRUCTOR IS TEACHING THE STUDENT.**

10 (d) **“CREDIT HOUR” MEANS TIME A STUDENT SPENDS IN A LECTURE, AN**
11 **EDUCATIONAL COURSE, OR A LABORATORY WHERE 1 SEMESTER HOUR EQUALS A**
12 **MINIMUM OF 15 CONTACT HOURS PER SEMESTER.**

13 [(c)] (E) “Health care setting” means:

14 (1) The office of a health care provider regulated under this article; or

15 (2) A health care facility as defined in § 19–114 of the Health – General
16 Article.

17 [(d)] (F) “License” means, unless the context requires otherwise, a license issued
18 by the Board to [practice] **PROVIDE** massage therapy **TREATMENT**.

19 [(e)] (G) “Licensed massage therapist” means an individual who is licensed by
20 the Board to [practice] **PROVIDE** massage therapy **TREATMENT**.

21 [(f)] (H) (1) “Massage therapy **TREATMENT**” means [the use of manual
22 techniques on soft tissues of the human body including effleurage (stroking), petrissage
23 (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or
24 without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend
25 topical applications, for the purpose of improving circulation, enhancing muscle relaxation,
26 relieving muscular pain, reducing stress, or promoting health and well-being] **TO TREAT**
27 **THE SOFT TISSUES AND THE TONUS MECHANISMS (SYSTEM) OF THE HUMAN BODY**
28 **USING:**

29 (I) **MANUAL MANIPULATION METHODS;**

30 (II) **STRETCHING AND MOVEMENT;**

1 (III) **HYDROTHERAPY, MECHANICAL, OR ELECTRICAL DEVICES**
2 **THAT AFFECT MUSCLE TONUS;**

3 (IV) **NONPRESCRIPTION TOPICAL APPLICATIONS; AND**

4 (V) **CLIENT EDUCATION WITHIN THE SCOPE OF MASSAGE**
5 **THERAPY TREATMENT.**

6 (2) ["Massage therapy" includes the laying on of hands, consisting of
7 pressure or movement on an individual who is fully clothed, except for footwear, to
8 specifically affect the electromagnetic energy or energetic field of the human body if this
9 practice includes use of the manual techniques set forth in paragraph (1) of this subsection.

10 (3) "Massage therapy **TREATMENT**" does not include:

11 (i) The diagnosis [or treatment of illness, disease, or injury] **OF A**
12 **SPECIFIC PATHOLOGY OR INJURY;**

13 (ii) The [adjustment, manipulation, or mobilization of any of the
14 articulations of the osseous structures of the human body or spine] **SPINAL**
15 **MANIPULATION OR THOSE ACTS OF PHYSICAL THERAPY THAT ARE OUTSIDE THE**
16 **SCOPE OF MASSAGE THERAPY TREATMENT;** or

17 (iii) [Except as provided in paragraph (2) of this subsection, the
18 laying on of hands, consisting of pressure or movement on an individual who is fully clothed,
19 except for footwear, to specifically affect the electromagnetic energy or energetic field of the
20 human body] **THE PRESCRIBING OF PRESCRIPTION DRUGS, INCLUDING**
21 **CONTROLLED DANGEROUS SUBSTANCES OR SUPPLEMENTS.**

22 [(4) (3) The provisions of paragraph [(3) (2) of this subsection do not
23 preclude the application of the modalities described in paragraph (1) of this subsection to
24 an individual who has an injury.

25 [(g) (I) ["Practice] "**PROVIDE** massage therapy **TREATMENT**" means to
26 engage professionally and for compensation in massage therapy **TREATMENT.**

27 [(h) (J) "Registered massage practitioner" means an individual who is
28 registered by the Board to [practice] **PROVIDE** massage therapy **TREATMENT** in a setting
29 that is not a health care setting.

30 [(i) (K) "Registration" means, unless the context requires otherwise, a
31 registration issued by the Board to [practice] **PROVIDE** massage therapy **TREATMENT** in
32 a setting that is not a health care setting.

1 Except as specifically provided in this title, this title does not limit the right of an
2 individual to [practice] **PROVIDE MASSAGE THERAPY TREATMENT** or advertise an
3 occupation that the individual otherwise is authorized to practice under this article.

4 6–202.

5 (b) (1) Each licensed massage therapist member shall be:

6 (i) A resident of the State;

7 (ii) A licensed massage therapist of integrity and ability [who is in
8 active practice] **WHOSE LICENSE IS CURRENTLY ACTIVE**;

9 (iii) A graduate of a Board–approved [course] **PROGRAM** in massage
10 therapy; and

11 (iv) An individual who has [practiced] **PROVIDED** massage therapy
12 **TREATMENT** in the State for at least 5 consecutive years before appointment.

13 6–206.

14 (b) In addition to the duties set forth elsewhere in this title, the Board shall:

15 (1) Keep a list of the name and address of each licensed massage therapist
16 and registered massage practitioner;

17 (2) Adopt an official seal;

18 (3) File reports of the activities of the Board as required by the Secretary;

19 (4) Assist in prosecutions under this title;

20 (5) Investigate an alleged violation of this title; [and]

21 (6) Establish an advisory committee, to be chaired by the vice chair of the
22 Board, to study the scope of practice of massage therapy and make recommendations to the
23 Board on changes to this title or regulations adopted by the Board under this subtitle that
24 are necessary to reflect currently practiced modalities; **AND**

25 **(7) PROVIDE ONGOING ASSISTANCE TO THE MARYLAND HUMAN**
26 **TRAFFICKING TASK FORCE, LAW ENFORCEMENT, AND STAKEHOLDERS INVOLVED**
27 **IN PREVENTING, INVESTIGATING, OR PROSECUTING HUMAN TRAFFICKING.**

28 6–301.

1 (a) Except as otherwise provided in this title, an individual shall be:

2 (1) Licensed by the Board before the individual may [practice] **PROVIDE**
3 massage therapy **TREATMENT** in the State; or

4 (2) Registered by the Board before the individual may [practice] **PROVIDE**
5 massage therapy **TREATMENT** in a setting that is not a health care setting in the State.

6 (b) This section does not apply to:

7 (1) A student enrolled in an approved education program as determined by
8 the Board while [practicing] **PROVIDING** massage therapy **TREATMENT** in the State;

9 (2) An individual permitted to [practice] **PROVIDE** massage therapy
10 **TREATMENT** under regulations adopted by the Board, if the individual otherwise has
11 qualified to [practice] **PROVIDE** massage therapy **TREATMENT** in any other state or
12 country that has substantially similar requirements for authorization to [practice]
13 **PROVIDE** massage therapy **TREATMENT** and the individual is in the State for no more
14 than 7 days;

15 (3) A family member [practicing] **PROVIDING** massage therapy
16 **TREATMENT** on another family member;

17 (4) An athletic trainer while functioning in the course of the athletic
18 trainer's professional capacity;

19 (5) An individual employed by the **UNITED STATES MILITARY OR THE**
20 federal government to [practice] **PROVIDE** massage therapy **TREATMENT** while
21 [practicing] **PROVIDING MASSAGE THERAPY TREATMENT** within the scope of the
22 individual's employment; or

23 (6) An individual working in a beauty salon:

24 (i) For which the person who operates the beauty salon has obtained
25 a permit from the State Board of Cosmetology as required under § 5-501 of the Business
26 Occupations and Professions Article; and

27 (ii) In which the individual is providing cosmetology and esthetic
28 services, including the application and removal of skin or skin care products.

29 6-302.

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

31 (1) Is of good moral character;

1 (2) Is at least 18 years old;

2 (3) Has satisfactorily completed:

3 (i) At least 60 credit hours of education at an institution of higher
4 education, as defined in § 10–101 of the Education Article, and as approved by the Board
5 and the Maryland Higher Education Commission, of which a minimum of 24 credit hours
6 shall have been in basic and applied science courses related to health care; or

7 (ii) 1. At least 60 credit hours of education at an institution of
8 higher education, as defined in § 10–101 of the Education Article, and as approved by the
9 Maryland Higher Education Commission; and

10 2. 24 [hours of advanced massage therapy continuing
11 education as approved by the Board in basic and applied science courses related to health
12 care] **CREDIT HOURS IN BASIC AND APPLIED SCIENCE COURSES RELATED TO HEALTH
13 CARE OR 360 CONTACT HOURS OF ADVANCED MASSAGE THERAPY CONTINUING
14 EDUCATION AS APPROVED BY THE BOARD;**

15 (4) Has completed 600 **CONTACT** hours of education in **AND HAS
16 GRADUATED FROM** a Board–approved program for the study of massage therapy that
17 includes the following areas of content:

18 (i) Anatomy, physiology, **PATHOLOGY**, and kinesiology;

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

20 (iii) Contraindications to massage therapy; and

21 (iv) Professional ethics;

22 **(5) HAS A CURRENT CPR CERTIFICATION AT THE HEALTH CARE
23 PROVIDER LEVEL;**

24 **[(5)] (6)** Has passed an examination approved by the Board; and

25 **[(6)] (7)** Submits to a criminal history records check in accordance with §
26 6–303 of this subtitle.

27 (b) To qualify to be registered, an applicant shall be an individual who:

28 (1) Is of good moral character;

29 (2) Is at least 18 years old;

30 (3) Has completed 600 **CONTACT** hours of education in **AND HAS**

1 **GRADUATED FROM** a Board–approved program for the study of massage therapy that
2 includes the following areas of content:

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

7 **(4) HAS A CURRENT CPR CERTIFICATION AT THE BASIC LEVEL;**

8 ~~[(4)]~~ **(5)** Has passed an examination approved by the Board; and

9 ~~[(5)]~~ **(6)** Submits to a criminal history records check in accordance with §
10 6–303 of this subtitle.

11 (c) (1) Subject to paragraph (2) of this subsection, the Board may waive any
12 requirement of this subtitle for an applicant who is licensed, certified, or registered to
13 ~~[practice]~~ **PROVIDE** massage therapy **TREATMENT** in another state.

14 (2) The Board may grant a waiver under paragraph (1) of this subsection
15 only if the applicant:

- 16 (i) Pays the application fee set by the Board; and
- 17 (ii) Provides adequate evidence that the applicant:

18 1. Has completed educational requirements that the Board
19 determines to be equivalent to the Board–approved educational requirements in this State;

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

23 3. Is of good moral character.

24 6–303.

25 (a) In this section, “Central Repository” means the Criminal Justice Information
26 System Central Repository of the Department of Public Safety and Correctional Services.

27 (b) As part of an application to the Central Repository for a State and national
28 criminal history records check, an applicant shall submit to the Central Repository:

1 (1) ~~Two~~ **ONE** complete ~~sets~~ **SET** of legible fingerprints taken on forms
2 approved by the Director of the Central Repository and the Director of the Federal Bureau
3 of Investigation;

4 (2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure
5 Article for access to State criminal history records; and

6 (3) The processing fee required by the Federal Bureau of Investigation for
7 a national criminal history records check.

8 (c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure
9 Article, the Central Repository shall forward to the Board and to the applicant the criminal
10 history record information of the applicant.

11 **(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE**
12 **CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY**
13 **RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A**
14 **REVISED PRINTED STATEMENT OF THE INDIVIDUAL’S CRIMINAL HISTORY RECORD.**

15 **[(d)] (E)** If an applicant has made three or more unsuccessful attempts at
16 securing legible fingerprints, the Board may accept an alternate method of a criminal
17 history records check as permitted by the Director of the Central Repository and the
18 Director of the Federal Bureau of Investigation.

19 **[(e)] (F)** Information obtained from the Central Repository under this section:

20 (1) Is confidential and may not be disseminated; and

21 (2) May be used only for the licensing or registration purpose authorized
22 by this title.

23 **[(f)] (G)** The subject of a criminal history records check under this section may
24 contest the contents of the printed statement issued by the Central Repository as provided
25 in § 10–223 of the Criminal Procedure Article.

26 6–306.

27 (a) If a licensed massage therapist or registered massage practitioner fails for any
28 reason to renew a license or registration, the Board shall reinstate the license or
29 registration if the former licensed massage therapist or former registered massage
30 practitioner:

31 (1) Applies to the Board for reinstatement of the license or registration
32 within ~~5~~ **2** years after the license or registration expires;

33 (2) Meets the renewal requirements of § 6–305 of this subtitle; and

1 (3) Pays to the Board the reinstatement fee set by the Board.

2 (b) (1) The Board may not reinstate the license of a former licensed massage
3 therapist or registration of a former registered massage practitioner who fails to apply for
4 reinstatement of the license or registration within [5] 2 years after the license or
5 registration expires.

6 (2) If the Board does not reinstate a license or registration under
7 paragraph (1) of this subsection, a former licensed massage therapist or former registered
8 massage practitioner may apply for a new license or registration by meeting the licensing
9 or registration requirements in effect at the time of application for obtaining a new license
10 or registration under this title and any additional requirements determined by the Board.

11 6–308.

12 (a) Subject to the hearing provisions of § 6–309 of this subtitle, the Board may
13 deny a license or registration to an applicant, reprimand a licensee or registration holder,
14 place any licensee or registration holder on probation, or suspend or revoke the license of a
15 licensee or the registration of a registration holder if the applicant, licensee, or registration
16 holder:

17 (8) Does an act that is inconsistent with generally accepted professional
18 standards in the [practice] PROVISION of massage therapy TREATMENT;

19 (9) Is negligent in the [practice] PROVISION of massage therapy
20 TREATMENT;

21 (b) If, after a hearing under § 6–309 of this subtitle, the Board finds that there
22 are grounds under subsection (a) of this section to suspend or revoke a license or
23 registration to [practice] PROVIDE massage therapy TREATMENT, to reprimand a licensee
24 or registration holder, or to place a licensee or registration holder on probation, the Board
25 may impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or
26 revoking the license or registration, reprimanding the licensee or registration holder, or
27 placing the licensee or registration holder on probation.

28 6–311.

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

30 (1) The unauthorized [practice] PROVISION of massage therapy
31 TREATMENT; or

32 (2) Conduct that is a ground for disciplinary action under § 6–308 of this
33 subtitle.

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

4 (2) An action under this section may be brought against an individual who
5 is authorized to [practice] **PROVIDE** massage therapy **TREATMENT** under this title.

6 (f) An action under this section is in addition to and not instead of criminal
7 prosecution for the unauthorized [practice] **PROVISION** of massage therapy **TREATMENT**
8 under § 6–501 of this title or disciplinary action under § 6–308 of this subtitle.

9 **SUBTITLE 3A. MASSAGE THERAPY ESTABLISHMENTS.**

10 **6–3A–01.**

11 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
12 **INDICATED.**

13 (B) **“MASSAGE THERAPY ESTABLISHMENT” MEANS A PLACE OF BUSINESS**
14 **THAT OFFERS TO PROVIDE MASSAGE THERAPY TREATMENT AND WHERE MASSAGE**
15 **THERAPY TREATMENT IS PROVIDED ON THE PREMISES OF THE BUSINESS.**

16 (C) **“MASSAGE THERAPY ESTABLISHMENT PERMIT” MEANS A PERMIT**
17 **ISSUED BY THE BOARD TO ESTABLISH AND OPERATE A MASSAGE THERAPY**
18 **ESTABLISHMENT.**

19 **6–3A–02.**

20 (A) (1) **A PERSON SHALL HOLD A MASSAGE THERAPY ESTABLISHMENT**
21 **PERMIT ISSUED BY THE BOARD BEFORE THE PERSON MAY ESTABLISH OR OPERATE**
22 **A MASSAGE THERAPY ESTABLISHMENT IN THE STATE.**

23 (2) **THE BOARD SHALL ADOPT REGULATIONS THAT DETERMINE THE**
24 **TYPE OF ENTITY THAT SHALL BE:**

25 (I) **INCLUDED AS A MASSAGE THERAPY ESTABLISHMENT; AND**

26 (II) **EXCLUDED AS A MASSAGE THERAPY ESTABLISHMENT.**

27 (B) **A SEPARATE MASSAGE THERAPY ESTABLISHMENT PERMIT IS REQUIRED**
28 **FOR EACH MASSAGE THERAPY ESTABLISHMENT THAT A PERSON ESTABLISHES OR**
29 **OPERATES.**

30 **6–3A–03.**

1 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A MASSAGE**
2 **THERAPY ESTABLISHMENT FOR WHICH A MASSAGE THERAPY ESTABLISHMENT**
3 **PERMIT HAS BEEN ISSUED UNDER THIS SUBTITLE:**

4 **(1) SHALL BE OPERATED IN COMPLIANCE WITH THE LAW AND WITH**
5 **THE RULES AND REGULATIONS OF THE BOARD;**

6 **(2) SHALL BE LOCATED AND EQUIPPED SO THAT THE MASSAGE**
7 **THERAPY ESTABLISHMENT MAY BE OPERATED WITHOUT ENDANGERING THE PUBLIC**
8 **HEALTH OR SAFETY;**

9 **(3) SHALL ENSURE THAT A LICENSED MASSAGE THERAPIST OR**
10 **REGISTERED MASSAGE PRACTITIONER BE IMMEDIATELY AVAILABLE ON THE**
11 **PREMISES WHEN MASSAGE THERAPY TREATMENT IS BEING PROVIDED;**

12 **(4) MAY NOT OFFER TO PROVIDE MASSAGE THERAPY TREATMENT**
13 **UNDER ANY TERM OR CONDITION THAT TENDS TO INTERFERE WITH OR IMPAIR THE**
14 **FREE AND COMPLETE EXERCISE OF PROFESSIONAL MASSAGE THERAPY JUDGMENT**
15 **OR SKILL;**

16 **(5) MAY NOT PARTICIPATE IN ANY ACTIVITY THAT IS A GROUND FOR**
17 **BOARD ACTION AGAINST A LICENSED MASSAGE THERAPIST OR REGISTERED**
18 **MASSAGE PRACTITIONER UNDER § 6-308 OF THIS TITLE;**

19 **(6) (I) SHALL MAINTAIN AT ALL TIMES THE MINIMUM**
20 **PROFESSIONAL AND TECHNICAL EQUIPMENT AND SANITARY APPLIANCES THAT ARE**
21 **NECESSARY IN A MASSAGE THERAPY ESTABLISHMENT:**

22 **1. TO PROVIDE SAFE AND SANITARY TREATMENT; AND**

23 **2. TO OTHERWISE OPERATE A MASSAGE THERAPY**
24 **ESTABLISHMENT; AND**

25 **(II) SHALL BE KEPT IN A CLEAN AND ORDERLY MANNER;**

26 **(7) SHALL STORE ALL EQUIPMENT OR DEVICES NECESSARY FOR THE**
27 **SAFE AND SANITARY PROVISION OF MASSAGE THERAPY TREATMENT PROPERLY AND**
28 **SAFELY SUBJECT TO THE RULES AND REGULATIONS ADOPTED BY THE BOARD;**

29 **(8) (I) SHALL KEEP ACCURATE AND COMPLETE CLIENT RECORDS**
30 **IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD, AND**
31 **APPLICABLE STATE AND FEDERAL LAW; AND**

1 (II) SHALL DISPOSE OF CLIENT RECORDS IN ACCORDANCE WITH
2 APPLICABLE STATE AND FEDERAL LAW;

3 (9) MAY NOT ALLOW AN UNAUTHORIZED INDIVIDUAL TO REPRESENT
4 THAT THE INDIVIDUAL IS A MASSAGE THERAPIST OR A MASSAGE PRACTITIONER;
5 AND

6 (10) SHALL COMPLY WITH ALL LOCAL LAWS, REGULATIONS, AND
7 ORDINANCES.

8 (B) SUBJECT TO THE HEARING PROVISIONS OF § 6-3A-11 OF THIS
9 SUBTITLE, IF A MASSAGE THERAPY ESTABLISHMENT IS OPERATED IN VIOLATION OF
10 THIS SECTION, THE BOARD MAY SUSPEND THE APPLICABLE MASSAGE THERAPY
11 ESTABLISHMENT PERMIT UNTIL THE MASSAGE THERAPY ESTABLISHMENT
12 COMPLIES WITH THIS SECTION.

13 **6-3A-04.**

14 (A) TO APPLY FOR A MASSAGE THERAPY ESTABLISHMENT PERMIT, A
15 PERSON SHALL:

16 (1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE
17 BOARD REQUIRES;

18 (2) PAY TO THE BOARD A NONREFUNDABLE APPLICATION FEE SET BY
19 THE BOARD;

20 (3) PASS THE BOARD MASSAGE THERAPY ESTABLISHMENT
21 JURISPRUDENCE EXAM; AND

22 (4) COMPLY WITH ANY OTHER REQUIREMENT ESTABLISHED IN
23 REGULATIONS.

24 (B) IN DEVELOPING THE REGULATIONS REQUIRED UNDER THIS SUBTITLE,
25 THE BOARD SHALL, TO THE EXTENT PRACTICABLE, MITIGATE THE FISCAL IMPACT
26 OF THIS SUBTITLE ON CURRENT LICENSEES AND INDIVIDUALS SEEKING TO
27 OPERATE MORE THAN ONE MASSAGE THERAPY ESTABLISHMENT IN THE STATE.

28 **6-3A-05.**

29 (A) THE BOARD SHALL ISSUE A MASSAGE THERAPY ESTABLISHMENT
30 PERMIT TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

1 **(B) IF THE BOARD DENIES A MASSAGE THERAPY ESTABLISHMENT PERMIT**
2 **TO AN APPLICANT, THE BOARD SHALL GIVE THE APPLICANT WRITTEN NOTICE OF**
3 **ITS DECISION AND THE REASONS FOR THE DENIAL.**

4 **6-3A-06.**

5 **A MASSAGE THERAPY ESTABLISHMENT PERMIT AUTHORIZES THE MASSAGE**
6 **THERAPY ESTABLISHMENT PERMIT HOLDER TO ESTABLISH AND OPERATE THE**
7 **MASSAGE THERAPY ESTABLISHMENT WHILE THE MASSAGE THERAPY**
8 **ESTABLISHMENT PERMIT IS ACTIVE.**

9 **6-3A-07.**

10 **(A) A MASSAGE THERAPY ESTABLISHMENT PERMIT EXPIRES ON A DATE**
11 **SPECIFIED IN REGULATIONS UNLESS RENEWED FOR A 2-YEAR TERM AS PROVIDED**
12 **IN THIS SECTION.**

13 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
14 **ON OR BEFORE THE DATE SPECIFIED IN REGULATIONS OF THE YEAR THE PERMIT**
15 **EXPIRES, THE BOARD SHALL SEND TO EACH MASSAGE THERAPY ESTABLISHMENT**
16 **PERMIT HOLDER, BY FIRST-CLASS MAIL OR ELECTRONIC MEANS, A RENEWAL**
17 **NOTICE FOR EACH MASSAGE THERAPY ESTABLISHMENT PERMIT TO THE LAST**
18 **KNOWN POSTAL ADDRESS OR E-MAIL ADDRESS OF THE MASSAGE THERAPY**
19 **ESTABLISHMENT PERMIT HOLDER.**

20 **(2) A RENEWAL NOTICE SENT UNDER THIS SUBSECTION SHALL**
21 **STATE:**

22 **(I) THE DATE ON WHICH THE CURRENT MASSAGE THERAPY**
23 **ESTABLISHMENT PERMIT EXPIRES;**

24 **(II) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE**
25 **RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE**
26 **THE MASSAGE THERAPY ESTABLISHMENT PERMIT EXPIRES; AND**

27 **(III) THE AMOUNT OF THE NONREFUNDABLE RENEWAL FEE.**

28 **(C) BEFORE THE MASSAGE THERAPY ESTABLISHMENT PERMIT EXPIRES,**
29 **THE MASSAGE THERAPY ESTABLISHMENT PERMIT HOLDER MAY RENEW IT FOR AN**
30 **ADDITIONAL 2-YEAR TERM IF THE MASSAGE THERAPY ESTABLISHMENT PERMIT**
31 **HOLDER:**

1 **(1) OTHERWISE IS ENTITLED TO THE MASSAGE THERAPY**
2 **ESTABLISHMENT PERMIT;**

3 **(2) PAYS TO THE BOARD A NONREFUNDABLE RENEWAL FEE SET BY**
4 **THE BOARD; AND**

5 **(3) SUBMITS A RENEWAL APPLICATION TO THE BOARD ON THE FORM**
6 **THAT THE BOARD PROVIDES.**

7 **(D) THE BOARD SHALL RENEW THE MASSAGE THERAPY ESTABLISHMENT**
8 **PERMIT OF EACH MASSAGE THERAPY ESTABLISHMENT PERMIT HOLDER WHO MEETS**
9 **THE REQUIREMENTS OF THIS SECTION.**

10 **(E) IF AN APPLICATION FOR RENEWAL IS NOT SUBMITTED ON OR BEFORE**
11 **THE DATE SPECIFIED IN REGULATION FOR RENEWAL OF THE PERMIT, THE MASSAGE**
12 **THERAPY ESTABLISHMENT PERMIT SHALL EXPIRE ON THE LAST DAY OF ITS TERM**
13 **AND THE BOARD MAY NOT REINSTATE THE MASSAGE THERAPY ESTABLISHMENT**
14 **PERMIT UNLESS THE APPLICANT:**

15 **(1) COMPLETES THE FORM PROVIDED BY THE BOARD;**

16 **(2) PROVIDES REASON, SUFFICIENT TO THE BOARD, FOR THE**
17 **FAILURE TO FILE WITHIN THE TIME REQUIRED; AND**

18 **(3) PAYS, IN ADDITION TO THE RENEWAL FEE, A LATE FEE SET BY THE**
19 **BOARD.**

20 **6-3A-08.**

21 **(A) A MASSAGE THERAPY ESTABLISHMENT PERMIT IS NOT TRANSFERABLE.**

22 **(B) EACH MASSAGE THERAPY ESTABLISHMENT PERMIT SHALL BE**
23 **DISPLAYED CONSPICUOUSLY IN THE MASSAGE THERAPY ESTABLISHMENT FOR**
24 **WHICH IT IS ISSUED.**

25 **6-3A-09.**

26 **SUBJECT TO THE HEARING PROVISIONS OF § 6-3A-11 OF THIS SUBTITLE, THE**
27 **BOARD MAY SUSPEND OR REVOKE ANY MASSAGE THERAPY ESTABLISHMENT PERMIT**
28 **IF THE MASSAGE THERAPY ESTABLISHMENT:**

29 **(1) PROVIDES MASSAGE THERAPY TREATMENT IN A MANNER THAT**
30 **ENDANGERS THE PUBLIC HEALTH OR SAFETY;**

1 **(2) VIOLATES ANY OF THE STANDARDS SPECIFIED IN § 6-3A-03 OF**
2 **THIS SUBTITLE; OR**

3 **(3) OTHERWISE DOES NOT CONDUCT BUSINESS IN ACCORDANCE**
4 **WITH THE LAW.**

5 **6-3A-10.**

6 **(A) IF, AFTER A HEARING UNDER § 6-3A-11 OF THIS SUBTITLE, THE BOARD**
7 **FINDS THAT THERE ARE GROUNDS UNDER § 6-3A-09 OF THIS SUBTITLE TO SUSPEND**
8 **OR REVOKE A PERMIT, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING**
9 **\$10,000:**

10 **(1) INSTEAD OF SUSPENDING THE PERMIT; OR**

11 **(2) IN ADDITION TO SUSPENDING OR REVOKING THE PERMIT.**

12 **(B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE**
13 **IMPOSITION OF PENALTIES UNDER THIS SECTION.**

14 **(C) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS**
15 **SECTION TO THE GENERAL FUND OF THE STATE.**

16 **6-3A-11.**

17 **(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE**
18 **PROCEDURE ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 6-3A-09 OF**
19 **THIS SUBTITLE OR ANY ACTION TO SUSPEND OR REVOKE A MASSAGE THERAPY**
20 **ESTABLISHMENT PERMIT UNDER ANY OTHER SECTION OF THIS SUBTITLE, IT SHALL**
21 **GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN**
22 **OPPORTUNITY FOR A HEARING BEFORE THE BOARD.**

23 **(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN**
24 **ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.**

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

28 **6-3A-12.**

29 **ANY PERSON WHOSE APPLICATION FOR A MASSAGE THERAPY**

1 ESTABLISHMENT PERMIT HAS BEEN DENIED OR WHOSE MASSAGE THERAPY
2 ESTABLISHMENT PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER THIS
3 SUBTITLE MAY PETITION FOR JUDICIAL REVIEW AS ALLOWED BY THE
4 ADMINISTRATIVE PROCEDURE ACT.

5 **6-3A-13.**

6 (A) (1) THE BOARD MAY PERFORM INSPECTIONS OF ALL MASSAGE
7 THERAPY ESTABLISHMENTS, INCLUDING PERMITTED AND NONPERMITTED
8 MASSAGE THERAPY ESTABLISHMENTS.

9 (2) AN INSPECTION CONDUCTED UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION MAY INCLUDE:

11 (I) CONFIRMATION THAT THE SITE IS BEING USED FOR
12 MASSAGE THERAPY TREATMENT; AND

13 (II) A DETERMINATION OF WHETHER THE ESTABLISHMENT IS IN
14 COMPLIANCE WITH THE LAWS, RULES, AND REGULATIONS GOVERNING THE
15 MASSAGE THERAPY ESTABLISHMENT'S OPERATION, FACILITIES, PERSONNEL,
16 SAFETY, AND SANITARY REQUIREMENTS.

17 (B) (1) AN INSPECTION PERFORMED IN ACCORDANCE WITH SUBSECTION
18 (A) OF THIS SECTION SHALL BE PERFORMED BASED ON:

19 (I) A VERIFIABLE COMPLAINT MADE TO THE BOARD; OR

20 (II) A SCHEDULE TO BE DETERMINED IN REGULATIONS.

21 (2) THE BOARD MAY PERFORM FOLLOW-UP INSPECTIONS AS IT
22 CONSIDERS APPROPRIATE AND AS DETERMINED IN REGULATIONS.

23 (C) FAILURE TO COOPERATE WITH AN INSPECTION MAY LEAD TO
24 DISCIPLINARY ACTION TO BE DETERMINED IN REGULATIONS ADOPTED BY THE
25 BOARD.

26 **6-401.**

27 (a) The Board shall adopt regulations to establish standards for advertising or
28 [soliciting] BUSINESS SOLICITATION by PERMITTED MASSAGE THERAPY
29 ESTABLISHMENTS, licensed massage therapists, or registered massage practitioners.

30 (c) A PERMITTED MASSAGE THERAPY ESTABLISHMENT, licensed massage
31 therapist, or registered massage practitioner may use a trade name in connection with the

1 [practice] **PROVISION** of massage therapy **TREATMENT** provided that:

2 (1) The use of the trade name is not deceptive or misleading;

3 (2) The advertisement in which the trade name appears includes the name
4 of the licensed massage therapist or registered massage practitioner or the name of the
5 business entity providing the massage therapy services being advertised[, as long as the
6 advertisement includes the name of a licensed massage therapist or registered massage
7 practitioner];

8 (3) The name of the **MASSAGE THERAPY ESTABLISHMENT**, licensed
9 massage therapist, or registered massage practitioner providing massage therapy services
10 appears on the billing invoices, stationery, and any receipt given to a patient; and

11 (4) Treatment records are maintained that clearly identify the licensed
12 massage therapist or registered massage practitioner who has performed the massage
13 therapy service for the patient.

14 6-501.

15 Except as otherwise provided in this title, an individual may not [practice]
16 **PROVIDE**, attempt to [practice] **PROVIDE**, or offer to [practice] **PROVIDE** massage therapy
17 **TREATMENT**, massage, myotherapy, or any synonym or derivation of these terms in the
18 State unless licensed or registered by the Board.

19 6-502.

20 (a) An individual who is not a licensed massage therapist or registered massage
21 practitioner under this title may not advertise or claim by title, abbreviation, sign, card, or
22 any other representation that the individual [practices] **PROVIDES** massage **THERAPY**
23 **TREATMENT**, massage [therapy], myotherapy, or any synonym or derivation of these
24 terms.

25 (c) Unless authorized to [practice] **PROVIDE MASSAGE THERAPY TREATMENT**
26 under this title, a person may not use the title “massage therapist”, “MT”, “licensed
27 massage therapist”, “LMT”, “massage practitioner”, “MP”, “registered massage
28 practitioner”, or “RMP”, or any other term or title with the intent to represent that the
29 person [practices] **PROVIDES** massage therapy **TREATMENT**.

30 6-504.

31 (a) A person who [practices] **PROVIDES** or attempts to [practice] **PROVIDE**
32 massage therapy **TREATMENT** without a license or registration in violation of § 6-501 of
33 this subtitle or represents to the public in violation of § 6-502 of this subtitle that the person
34 is authorized to [practice] **PROVIDE** massage therapy **TREATMENT** is guilty of a
35 misdemeanor and on conviction is subject to:

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

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2018.