

SENATE BILL 745

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11r2372
CF HB 1039

By: **Senator Elfreth**

Introduced and read first time: February 5, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of altering a certain requirement for certain State Board of Massage
4 Therapy Examiners members who are licensed massage therapists; altering the
5 education requirements for applicants to qualify for a certain license or registration
6 by requiring that certain curriculums and programs be endorsed by a certain entity
7 or a certain equivalent entity; altering the number of sets of certain fingerprints that
8 certain applicants are required to submit to the Criminal Justice Information
9 System Central Repository of the Department of Public Safety and Correctional
10 Services; requiring the Central Repository to provide the Board with a certain
11 revised statement under certain circumstances; requiring the Board to consider
12 certain information when making certain determinations about certain applicants;
13 requiring the Board to place certain licensed massage therapists and registered
14 massage practitioners on inactive status under certain circumstances; authorizing
15 certain licensed massage therapists and registered massage practitioners to
16 reactivate the license or registration under certain circumstances; altering a certain
17 ground for discipline; repealing a certain provision of law that provides that certain
18 provisions of law do not require certain persons to reimburse a licensed massage
19 therapist or registered massage practitioner for certain services rendered; altering a
20 certain definition; making technical changes; and generally relating to the regulation
21 of massage therapists and massage practitioners.

22 BY repealing and reenacting, with amendments,

23 Article – Health Occupations

24 Section 6–101, 6–202(b)(1)(iii), 6–302, 6–303, and 6–308(a)(16)

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 Annotated Code of Maryland
2 (2014 Replacement Volume and 2020 Supplement)

3 BY adding to
4 Article – Health Occupations
5 Section 6–306.2
6 Annotated Code of Maryland
7 (2014 Replacement Volume and 2020 Supplement)

8 BY repealing
9 Article – Health Occupations
10 Section 6–403
11 Annotated Code of Maryland
12 (2014 Replacement Volume and 2020 Supplement)

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

15 **Article – Health Occupations**

16 6–101.

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

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

19 (c) “Health care setting” means:

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

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

23 (d) “License” means, unless the context requires otherwise, a license issued by the
24 Board to practice massage therapy.

25 (e) “Licensed massage therapist” means an individual who is licensed by the
26 Board to practice massage therapy.

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

1 (2) "Massage therapy" includes [the laying on of hands] **HANDS-ON**
2 **APPLICATION**, consisting of pressure or movement on an individual [who is fully clothed,
3 except for footwear], to specifically affect the electromagnetic energy or energetic field of
4 the human body if this practice includes use of the manual techniques set forth in
5 paragraph (1) of this subsection.

6 (3) "Massage therapy" does not include:

7 (i) The diagnosis [or treatment] of illness, disease, or injury; ~~OR~~

8 (ii) The adjustment, manipulation, or mobilization of any of the
9 articulations of the osseous structures of the human body or spine~~;~~ or

10 (iii) Except as provided in paragraph (2) of this subsection, the laying
11 on of hands, consisting of pressure or movement on an individual who is fully clothed,
12 except for footwear, to specifically affect the electromagnetic energy or energetic field of the
13 human body~~].~~

14 (4) The provisions of paragraph (3) of this subsection do not preclude the
15 application of the modalities described in paragraph (1) of this subsection to an individual
16 who has an injury.

17 (g) "Practice massage therapy" means to engage professionally and for
18 compensation in massage therapy.

19 (h) "Registered massage practitioner" means an individual who is registered by
20 the Board to practice massage therapy in a setting that is not a health care setting.

21 (i) "Registration" means, unless the context requires otherwise, a registration
22 issued by the Board to practice massage therapy in a setting that is not a health care
23 setting.

24 6-202.

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

26 (iii) A graduate of a Board-approved [course] **PROGRAM** in massage
27 therapy; and

28 6-302.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Contact hour" means 50 minutes of actual instructional time per each
31 60-minute hour.

1 (3) "Credit hour" means a minimum of:

2 (i) 15 contact hours, during which the instructional time was
3 provided through actual class time, exclusive of registration, study days, and holidays;

4 (ii) 30 contact hours, during which the instructional time was
5 provided through supervised laboratory or studio time, exclusive of registration, study
6 days, and holidays; or

7 (iii) 45 contact hours, during which the instructional time was
8 provided through supervised practica, internships, and cooperative education placements,
9 when learning was documented.

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

11 (1) Is of good moral character;

12 (2) Is at least 18 years old;

13 (3) Has graduated [with:

14 (i) At] **FROM AN INSTITUTION OF HIGHER EDUCATION, AS**
15 **DEFINED IN § 10–101 OF THE EDUCATION ARTICLE AND APPROVED BY THE**
16 **MARYLAND HIGHER EDUCATION COMMISSION, WITH AT** least 60 credit hours of
17 education [at an institution of higher education, as defined in § 10–101 of the Education
18 Article, as approved by the Board and the Maryland Higher Education Commission, of
19 which a minimum of 24 credit hours shall have been in basic and applied science courses
20 related to health care accredited by an accrediting agency or organization that accredits
21 both institutions of higher education and programs offering instruction in massage therapy;
22 or

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

26 2. 24 credit hours or 360 contact hours of advanced massage
27 therapy continuing education as approved by the Board in basic and applied science courses
28 related to health care] **IN A CURRICULUM:**

29 **(I) ENDORSED BY THE COMMISSION ON MASSAGE THERAPY**
30 **ACCREDITATION OR AN EQUIVALENT ENTITY THAT ACCREDITS BOTH INSTITUTIONS**
31 **OF HIGHER EDUCATION AND PROGRAMS OFFERING INSTRUCTION IN MASSAGE**
32 **THERAPY; AND**

33 **(II) APPROVED BY THE BOARD;**

1 **(4) HAS COMPLETED:**

2 **(I) A MINIMUM OF 24 CREDIT HOURS IN BASIC AND APPLIED**
3 **SCIENCE COURSES RELATED TO HEALTH CARE AS PART OF THE 60 CREDIT HOURS**
4 **REQUIRED UNDER ITEM (3) OF THIS SUBSECTION; OR**

5 **(II) IF THE 60 CREDIT HOURS THE APPLICANT COMPLETED TO**
6 **COMPLY WITH ITEM (3) OF THIS SUBSECTION DID NOT INCLUDE 24 CREDIT HOURS**
7 **IN BASIC AND APPLIED SCIENCE COURSES RELATED TO HEALTH CARE, 24 CREDIT**
8 **HOURS OR 360 CONTACT HOURS OF BASIC AND APPLIED SCIENCE COURSES**
9 **RELATED TO HEALTH CARE THROUGH ADVANCED MASSAGE THERAPY CONTINUING**
10 **EDUCATION COURSES APPROVED BY THE BOARD;**

11 **[(4) (5)]** Has completed 600 contact hours of education in a
12 Board-approved program for the study of massage therapy that includes the following
13 areas of content:

- 14 (i) Anatomy, physiology, and kinesiology;
- 15 (ii) Massage theory, techniques, and practice;
- 16 (iii) Contraindications to massage therapy;
- 17 (iv) Professional ethics;
- 18 (v) Pathology; and
- 19 (vi) Research;

20 **[(5) (6)]** Has passed an examination approved by the Board; and

21 **[(6) (7)]** Submits to a criminal history records check in accordance with §
22 6-303 of this subtitle.

23 (c) To qualify to be registered, an applicant shall be an individual who:

- 24 (1) Is of good moral character;
- 25 (2) Is at least 18 years old;
- 26 (3) Has graduated from a program for the study of massage therapy:

27 (i) That has been approved by the Maryland Higher Education
28 Commission [and accredited by];

1 **(II) THAT HAS A CURRICULUM THAT HAS BEEN ENDORSED BY**
2 **THE COMMISSION ON MASSAGE THERAPY ACCREDITATION OR AN EQUIVALENT**
3 **ENTITY THAT IS** an accrediting agency or organization that accredits both institutions of
4 higher education and programs offering instruction in massage therapy; [and]

5 [(ii)] **(III) That has been approved by the Board [and that]; AND**

6 **(IV) THAT** requires at least 600 contact hours of classroom
7 instruction that includes the following areas of content:

- 8 1. Anatomy, physiology, and kinesiology;
- 9 2. Massage theory, techniques, and practice;
- 10 3. Contraindications to massage therapy;
- 11 4. Professional ethics;
- 12 5. Pathology; and
- 13 6. Research;

14 (4) Has passed an examination approved by the Board; and

15 (5) Submits to a criminal history records check in accordance with § 6–303
16 of this subtitle.

17 (d) (1) Subject to paragraph (2) of this subsection, the Board may waive any
18 requirement of this subtitle for an applicant who is licensed, certified, or registered to
19 practice massage therapy in another state.

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

22 (i) Pays the application fee set by the Board; and

23 (ii) Provides adequate evidence that the applicant:

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

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

29 3. Is of good moral character.

1 6-303.

2 (a) In this section, "Central Repository" means the Criminal Justice Information
3 System Central Repository of the Department of Public Safety and Correctional Services.

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

6 (1) ~~Two~~ **ONE** complete ~~sets~~ **SET** of legible fingerprints taken on ~~forms~~
7 **A FORM** approved by the Director of the Central Repository and the Director of the Federal
8 Bureau of Investigation;

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

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

13 (c) **(1)** In accordance with §§ 10-201 through 10-228 of the Criminal
14 Procedure Article, the Central Repository shall forward to the Board and to the applicant
15 the criminal history record information of the applicant.

16 **(2) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO**
17 **THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY**
18 **RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A**
19 **REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE CRIMINAL HISTORY**
20 **RECORD.**

21 (d) If an applicant has made three or more unsuccessful attempts at securing
22 legible fingerprints, the Board may accept an alternate method of a criminal history records
23 check as permitted by the Director of the Central Repository and the Director of the Federal
24 Bureau of Investigation.

25 (e) Information obtained from the Central Repository under this section:

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

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

29 (f) The subject of a criminal history records check under this section may contest
30 the contents of the printed statement issued by the Central Repository as provided in §
31 10-223 of the Criminal Procedure Article.

1 **(G) IN USING INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY**
2 **UNDER THIS SECTION TO DETERMINE WHETHER TO ISSUE A LICENSE OR**
3 **REGISTRATION, THE BOARD SHALL CONSIDER:**

4 **(1) THE AGE AT WHICH THE CRIME WAS COMMITTED;**

5 **(2) THE NATURE OF THE CRIME;**

6 **(3) THE CIRCUMSTANCES SURROUNDING THE CRIME;**

7 **(4) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME WAS**
8 **COMMITTED;**

9 **(5) SUBSEQUENT WORK HISTORY;**

10 **(6) EMPLOYMENT AND CHARACTER REFERENCES; AND**

11 **(7) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE**
12 **APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

13 **6-306.2.**

14 **(A) THE BOARD SHALL PLACE A LICENSED MASSAGE THERAPIST OR**
15 **REGISTERED MASSAGE PRACTITIONER ON INACTIVE STATUS IF THE LICENSEE OR**
16 **REGISTRATION HOLDER SUBMITS TO THE BOARD:**

17 **(1) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED**
18 **BY THE BOARD; AND**

19 **(2) THE INACTIVE STATUS FEE SET BY THE BOARD.**

20 **(B) A LICENSED MASSAGE THERAPIST OR A REGISTERED MASSAGE**
21 **PRACTITIONER ON INACTIVE STATUS MAY REACTIVATE THE LICENSE OR**
22 **REGISTRATION IF THE LICENSEE OR REGISTRATION HOLDER:**

23 **(1) COMPLIES WITH THE CONTINUING EDUCATION AND CPR**
24 **REQUIREMENTS THAT ARE:**

25 **(i) ESTABLISHED IN REGULATIONS ADOPTED BY THE BOARD;**
26 **AND**

27 **(ii) IN EFFECT FOR THE CURRENT LICENSE OR REGISTRATION**
28 **RENEWAL PERIOD IN WHICH THE LICENSEE OR REGISTRATION HOLDER SEEKS TO**
29 **REACTIVATE THE LICENSE OR REGISTRATION; AND**

1 **(2) PAYS THE REACTIVATION FEE SET BY THE BOARD.**

2 6–308.

3 (a) Subject to the hearing provisions of § 6–309 of this subtitle, the Board may
4 deny a license or registration to an applicant, reprimand a licensee or registration holder,
5 place any licensee or registration holder on probation, or suspend or revoke the license of a
6 licensee or the registration of a registration holder if the applicant, licensee, or registration
7 holder:

8 (16) Except in an emergency life–threatening situation where it is not
9 feasible or practicable, fails to comply with the Centers for Disease Control and
10 Prevention’s guidelines on [universal] **STANDARD** precautions;

11 [6–403.

12 This subtitle does not require a nonprofit health service plan, an insurer, a health
13 maintenance organization, or a person acting as a third party administrator to reimburse
14 a licensed massage therapist or registered massage practitioner for any services rendered
15 even though the services are within the scope of practice of the licensed massage therapist
16 or registered massage practitioner.]

17 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
18 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.