

SENATE BILL 215

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3lr1543
CF HB 238

By: **Senators Ellis and Augustine**

Introduced and read first time: January 23, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2023

CHAPTER _____

1 AN ACT concerning

2 **Massage Therapy – ~~Definition and Discipline~~**

3 FOR the purpose of ~~altering the definition of “practice massage therapy” for purposes of the~~
4 ~~Maryland Massage Therapy Act to include the professional practice of massage~~
5 ~~therapy without compensation; authorizing the State Board of Massage Therapy~~
6 ~~Examiners to grant a stay of enforcement of a Board order in accordance with the~~
7 ~~Administrative Procedure Act; altering the grounds for disciplining massage~~
8 therapists and procedures related to the discipline of massage therapists, including
9 appeals procedures and reinstatement procedures; altering the application of the
10 penalties for practicing or attempting to practice massage therapy without a license
11 or registration and for false representation to the public of an authorization to
12 practice massage therapy; and generally relating to the practice of massage therapy.

13 ~~BY repealing and reenacting, without amendments,~~
14 ~~Article – Health Occupations~~
15 ~~Section 6–101(a) and (b)~~
16 ~~Annotated Code of Maryland~~
17 ~~(2021 Replacement Volume and 2022 Supplement)~~

18 BY repealing and reenacting, with amendments,
19 Article – Health Occupations
20 Section ~~6–101(g)~~, 6–308(a)(21) and (22), 6–310, 6–502, and 6–504
21 Annotated Code of Maryland
22 (2021 Replacement Volume and 2022 Supplement)

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 BY adding to
 2 Article – Health Occupations
 3 Section 6–308(a)(23) and 6–312
 4 Annotated Code of Maryland
 5 (2021 Replacement Volume and 2022 Supplement)

6 BY repealing
 7 Article – Health Occupations
 8 Section 6–308(d)
 9 Annotated Code of Maryland
 10 (2021 Replacement Volume and 2022 Supplement)

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

13 **Article – Health Occupations**

14 ~~6–101.~~

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

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

17 (c) ~~“Practice massage therapy” means to engage professionally [and for], WITH~~
 18 ~~OR WITHOUT compensation, in massage therapy.~~

19 6–308.

20 (a) Subject to the hearing provisions of § 6–309 of this subtitle, the Board may
 21 deny a license or registration to an applicant, reprimand a licensee or registration holder,
 22 place any licensee or registration holder on probation, or suspend or revoke the license of a
 23 licensee or the registration of a registration holder if the applicant, licensee, or registration
 24 holder:

25 (21) Knowingly does an act that has been determined by the Board to be a
 26 violation of the Board’s regulations; [or]

27 (22) Fails to submit to a criminal history records check in accordance with §
 28 6–303 of this subtitle; **OR**

29 **(23) FAILS TO COMPLY WITH A BOARD ORDER.**

30 [(d) The Board shall file a notice for publication in the earliest publication of the
 31 Maryland Register of each revocation or suspension of a license or registration under this
 32 section within 24 hours after the revocation or suspension.]

1 6–310.

2 (a) Except as provided in this section for an action under § 6–308 of this subtitle,
3 any person aggrieved by a final decision of the Board in a contested case, as defined in the
4 Administrative Procedure Act, may petition for judicial review as allowed by the
5 Administrative Procedure Act.

6 (b) Any person aggrieved by a final decision of the Board under § 6–308 of this
7 subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided
8 in the Administrative Procedure Act.

9 (c) **(1) THE BOARD MAY GRANT A STAY OF ENFORCEMENT OF A BOARD**
10 **ORDER IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.**

11 **(2) AN ORDER BY THE BOARD MAY NOT BE STAYED PENDING**
12 **JUDICIAL REVIEW.**

13 (d) **THE BOARD MAY APPEAL A DECISION THAT REVERSES OR MODIFIES ITS**
14 **ORDER.**

15 **6–312.**

16 **IF A LICENSE OR REGISTRATION HAS BEEN SUSPENDED OR REVOKED UNDER**
17 **§ 6–308 OF THIS SUBTITLE, THE BOARD MAY REINSTATE THAT LICENSE OR**
18 **REGISTRATION ONLY IN ACCORDANCE WITH:**

19 **(1) THE TERMS AND CONDITIONS OF THE ORDER OF SUSPENSION OR**
20 **ORDER OF REVOCATION; OR**

21 **(2) AN ORDER OF REINSTATEMENT ISSUED BY THE BOARD.**

22 6–502.

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

27 (b) An individual who is a registered massage practitioner under this title, or a
28 business entity that employs an individual who is a registered massage practitioner under
29 this title, may not advertise to the public that the individual or business entity provides
30 health-related therapeutic massage services.

31 (c) Unless authorized to practice under this title, a person may not use the title
32 “massage therapist”, “MT”, “licensed massage therapist”, “LMT”, “massage practitioner”,

1 “MP”, “registered massage practitioner”, or “RMP”, or any other term or title with the intent
2 to represent that the person practices massage therapy.

3 (d) [(1) An individual may not perform a massage or offer to perform a massage
4 on another individual for compensation unless the individual who performs the massage or
5 offers to perform a massage is a licensed massage therapist or registered massage
6 practitioner.

7 [(2)] A law enforcement officer may demand proof of licensure or
8 registration.

9 6–504.

10 (a) **(1) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO**
11 **PRACTICES OR ATTEMPTS TO PRACTICE MASSAGE THERAPY WITHOUT A LICENSE OR**
12 **REGISTRATION IF THE PERSON’S LICENSE OR REGISTRATION EXPIRED FEWER THAN**
13 **6 MONTHS BEFORE THE VIOLATION OCCURRED.**

14 **(2)** A person who practices or attempts to practice massage therapy
15 without a license or registration in violation of § 6–501 of this subtitle or represents to the
16 public in violation of § 6–502 of this subtitle that the person is authorized to practice
17 massage therapy is guilty of a misdemeanor and on conviction is subject to:

18 [(1)] **(I)** For a first offense, a fine not exceeding \$2,000 or imprisonment
19 not exceeding 6 months; or

20 [(2)] **(II)** For a subsequent offense, a fine not exceeding \$6,000 or
21 imprisonment not exceeding 1 year.

22 (b) A person who is convicted under subsection (a) of this section shall reimburse
23 the Board for the direct costs of the Board, including court reporting services and expert
24 witness fees, incurred as a result of a prosecution under subsection (a) of this section.

25 (c) (1) A person who violates § 6–501 of this subtitle is subject to a civil fine of
26 not more than \$10,000 to be assessed by the Board in accordance with regulations adopted
27 by the Board.

28 (2) The Board shall pay any penalty collected under this subsection into
29 the State Board of Massage Therapy Examiners Fund.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2023.