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Chapter No. 477
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CRL / TBTB

SENATE BILL NO. 2737

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2737

AN ACT TO REENACT SECTIONS 73-67-1 THROUGH 73-67-37, MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI PROFESSIONAL MASSAGE THERAPY ACT; TO AMEND SECTION 73-67-7, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS UNDER THE MASSAGE THERAPY ACT; TO AMEND SECTION 73-67-21, MISSISSIPPI CODE OF 1972, TO REQUIRE MASSAGE THERAPY LICENSES TO BE PROMINENTLY DISPLAYED AND TO REQUIRE APPLICANTS TO COMPLETE CRIMINAL BACKGROUND CHECK AND FINGERPRINTING FOR LICENSURE; TO AMEND SECTION 73-67-23, MISSISSIPPI CODE OF 1972, TO PRESCRIBE CERTAIN EXAMINATION REQUIREMENTS FOR APPLICANTS; TO AMEND SECTION 73-67-25, MISSISSIPPI CODE OF 1972, TO CLARIFY RECIPROCITY PROVISIONS; TO AMEND SECTION 73-67-29, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN EXEMPTIONS FROM ADVERTISING RESTRICTIONS FOR LICENSEES; TO AMEND SECTION 73-67-35, MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN STANDARDS FOR MASSAGE THERAPY SCHOOLS; TO AMEND SECTION 73-67-39, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI PROFESSIONAL MASSAGE THERAPY ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-67-1, Mississippi Code of 1972, is reenacted as follows:

73-67-1. This chapter shall be known and may be cited as the "Mississippi Professional Massage Therapy Act."

SECTION 2. Section 73-67-3, Mississippi Code of 1972, is reenacted as follows:

73-67-3. The Legislature finds that in the profession and practice of massage therapy there is a necessity to preserve and protect individual life and health, promote the public interest and welfare by providing for the licensure of massage therapists and assuring public safety.

SECTION 3. Section 73-67-5, Mississippi Code of 1972, is reenacted as follows:

73-67-5. (1) The provisions of this chapter shall not apply to the following:

(a) Persons state licensed, state registered, state certified, or otherwise state credentialed by the laws of this state to include massage as part of their practice, or other allied modalities that are certified by a nationally accredited organization recognized by the board;

(b) Students enrolled in a massage therapy school and, at the same time, working in a student clinic, and out-of-state massage therapy instructors when teaching in these programs;

(2) Any exemption granted under this section is effective only insofar as and to the extent that the bona fide practice of the profession or business of the person exempted overlaps into the field comprehended by this law, and exemptions under this section are only for those activities that are currently

authorized and performed in the course of the bona fide practice of the business or profession of the person exempted.

SECTION 4. Section 73-67-7, Mississippi Code of 1972, is amended as follows:

73-67-7. For purposes of this chapter, the following terms shall have the meanings stated in this section, unless otherwise stated:

(a) "Approved massage therapy school" means a facility that is licensed by this board and meets the curriculum and instruction requirements as stated in this chapter.

(b) "Board" means the State Board of Massage Therapy as created in this chapter.

(c) "Board-accepted hours" means hours of education accepted by the board to meet requirements of exemption and/or continuing education for pre-act practitioners and is different from "board-approved programs" and/or "board-approved school hours."

(d) "Classroom hour" means no less than fifty (50) minutes of any one (1) clock hour during which the student participates in a learning activity under the supervision of a board licensed instructor.

(e) "Examination" means the State Board of Massage Therapy approved examination for licensure.

(f) "License" means a State Board of Massage Therapy approved form of credential indicating that the license holder has

met the requirements of this chapter for the practice of massage therapy.

(g) "Massage" means touch, stroking, kneading, stretching, friction, percussion and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment). "Therapy" means action aimed at achieving or increasing health and wellness. "Massage therapy" means the profession in which the practitioner applies massage techniques with the intent of positively affecting the health and well-being of the client, and may adjunctively (i) apply allied modalities, heat, cold, water and topical preparations not classified as prescription drugs, (ii) use hand held tools such as electric hand massagers used adjunctively to the application of hand massage or devices designed as t-bars or knobbies, and (iii) instruct self-care and stress management. "Manual" means by use of hand or body.

(h) "Massage establishment" means a place of business where massage is being conducted.

(i) "Massage therapist" means a person who practices massage therapy.

(j) "MPMTA" means the "Mississippi Professional Massage Therapy Act."

(k) "Mississippi State Law Examination" means the comprehensive examination on the Mississippi Professional Massage

Therapy Act and the associated relevant Board Rules and Regulations that is given by the board or its representative.

(* * *l) "Pre-act practitioner" means an individual who has practiced professional massage therapy before January 1, 2001.

(l * * *m) "Professional" means requiring minimum standards of conduct, ethics and education.

(* * *n) "Provisional permit" means a temporary permit approved by the board when all requirements, other than board-approved national or state examinations * * *, have been met, not to exceed ninety (90) days.

SECTION 5. Section 73-67-9, Mississippi Code of 1972, is reenacted as follows:

73-67-9. (1) There is created the State Board of Massage Therapy.

(2) The board shall consist of five (5) members appointed by the Governor, with the advice and consent of the Senate. At least three (3) members shall be appointed from a list submitted by state representatives of one or more nationally recognized professional massage therapy association(s), all of whom must be residents of Mississippi and must have engaged in the practice of massage therapy within the state for at least three (3) years, one (1) member shall be a licensed health professional in a health field other than massage therapy and one (1) member shall be a consumer at large who is not associated with or financially

interested in the practice or business of massage therapy. No member of the board may be an owner or partner of a massage therapy school. The initial members of the board shall be appointed for staggered terms, as follows: one (1) member shall be appointed for a term that ends on June 30, 2002; one (1) member shall be appointed for a term that ends on June 30, 2003; one (1) member shall be appointed for a term that ends on June 30, 2004; and two (2) members shall be appointed for terms that end on June 30, 2005. Appointments shall be made within ninety (90) days from July 1, 2001.

(3) All subsequent appointments to the board shall be appointed by the Governor for terms of four (4) years from the expiration date of the previous term. No person shall be appointed for more than two (2) consecutive terms. By approval of the majority of the board, the service of a member may be extended at the completion of a four-year term until a new member is appointed or the current member is reappointed. The board shall elect one (1) of the appointed massage therapists as the chairman of the board.

(4) A majority of the board may appoint an executive director and other such individuals, including an attorney, as may be necessary to implement the provisions of this chapter. The board may hold additional meetings at such times and places as it deems necessary. A majority of the board shall constitute a

quorum and a majority of the board shall be required to grant or revoke a license.

SECTION 6. Section 73-67-11, Mississippi Code of 1972, is reenacted as follows:

73-67-11. Before entering upon discharge of the duties of the office, the executive director of the board shall furnish a bond, approved by the board, to the state in the sum of Five Thousand Dollars ($5,000.00). The bond shall be conditioned upon the faithful discharge of the duties of the office, the premium on the bond shall be paid from funds paid into the State Treasury by the director of the board, and the bond shall be deposited with the Secretary of State. All fees and other monies collected or received by the board shall be paid into and credited to a special fund that is created in the State Treasury, which shall be known as the "State Board of Massage Therapy Fund." Any interest earned on the special fund shall be credited to the special fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund. Monies in the special fund shall be expended exclusively for the purposes of carrying out the provisions of this chapter. Disbursement of monies in the special fund shall be made only upon warrants issued by the State Fiscal Officer upon requisitions signed by the treasurer of the board. The financial records of the board shall be audited annually by the State Auditor. The board shall receive

no appropriations from any state funds for its support except from the special fund.

SECTION 7. Section 73-67-13, Mississippi Code of 1972, is reenacted as follows:

73-67-13. Each member of the board shall receive the per diem authorized under Section 25-3-69 for each day actually discharging his official duties, and shall receive reimbursement for mileage and necessary expense incurred, as provided in Section 25-3-41. The expenses of the board in carrying out the provisions of this chapter shall be paid upon requisitions signed by the chairman and/or secretary of the board and warrants signed by the State Fiscal Officer from the State Board of Massage Therapy Fund. Such expenses shall not exceed the amount paid into the State Treasury under the provisions of this chapter.

SECTION 8. Section 73-67-15, Mississippi Code of 1972, is reenacted as follows:

73-67-15. (1) The board shall:

(a) Adopt an official seal and keep a record of its proceedings, persons licensed as massage therapists, and a record of the licenses that have been revoked or suspended;

(b) Keep on file all appropriate records pertaining to each license;

(c) Annually, on or before February 15, make a report to the Governor and Legislature of all of its official acts during the preceding year, its total receipts and disbursements, and a

full and complete report of relevant statistical and significantly notable conditions of massage therapists in this state as uniformly stipulated by the board;

(d) Evaluate the qualifications of applicants for licensure under this chapter, and advise applicants as to the acceptance or denial of licensure with any reasons for denial within forty-five (45) days;

(e) Issue licenses to applicants who meet the requirements of this chapter;

(f) Inspect, or have inspected, when required, the business premises of any licensed massage therapist during their operating hours, so long as that inspection does not infringe on the reasonable privacy of any therapist's clients;

(g) Establish minimum training and educational standards for obtaining a license under this chapter, provided that requirements do not decrease;

(h) Establish a procedure for approval of educational standards required by this chapter;

(i) Investigate persons suspected of engaging in practices that may violate provisions of this chapter;

(j) Revoke, suspend or deny a license in accordance with the provisions of this chapter;

(k) Adopt an annual budget;

(l) Establish policies with respect to continuing education;

(m) Adopt rules:

(i) Specifying standards and procedures for issuance of a provisional permit;

(ii) Specifying licensure procedures for practitioners desiring to be licensed in this state who hold an active license or credentials from another state board;

(iii) The board shall prescribe renewal procedures, requirements, dates and fees for massage therapy licenses issued by the board and shall include provisions for inactive and lapsed licenses; those rules shall be in accordance with Section 33-1-39;

(n) Make available all forms necessary for carrying out all provisions of this chapter and any and all necessary business of the board;

(o) Establish written duties of the executive director;

(p) Establish a set of reasonable and customary fines and penalties for violations of this chapter, and fees, including refund policies, which shall be standardized and not exceeded unless amended with at least thirty (30) days' notice to those who are licensed;

(q) Establish, amend or repeal any rules or regulations necessary to carry out the purposes of this chapter and the duties and responsibilities of the board. Affected practitioners shall be sent relevant changes no less than once per licensure renewal;

(r) The board shall maintain a current register listing the name of every massage therapist licensed to practice in this state, his/her last known place of business and last known place of residence, and the date and number of his/her license;

(s) The board shall set up guidelines for the operation of schools of massage therapy, and it is charged with that regulation in this state. The board may prescribe reasonable rules and regulations governing schools of massage therapy for the guidance of persons licensed under this chapter in the operation of schools of massage therapy and in the practice of massage therapy. When the board has reasons to believe that any of the provisions of this chapter or the rules and regulations of the board have been violated, either upon receipt of a written complaint alleging those violations or upon the board's own initiative, the board or any of its authorized agents shall investigate same and may enter upon the premises of a school of massage therapy at any time during regular business hours of that school to conduct the investigation. The investigation may include, but not be limited to, conducting oral interviews with the complaining party, school or school owner(s) and/or students of the school, and reviewing records of the school pertinent to the complaint and related to an area subject to the authority of the board.

(2) Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations

of the member's office. Board members shall be immune from civil liability pertaining to any legal functions involving the carrying out of the activities and responsibilities of this chapter.

SECTION 9. Section 73-67-17, Mississippi Code of 1972, is reenacted as follows:

73-67-17. The board may adopt rules:

(a) Establishing reasonable standards concerning the sanitary, hygienic and healthful conditions of the licensed massage therapist and of premises and facilities used by massage therapists;

(b) Relating to the methods and procedures used in the practice of massage;

(c) Governing the examination and investigation of applicants for the licenses issued under this chapter and the issuance, renewal, suspension and revocation of the license;

(d) Setting standards for certifying continuing education classes;

(e) Requiring that massage therapists supply the board with the accurate, current address or addresses where they practice massage;

(f) Establishing the educational, training and experience requirements for licensure by reciprocity;

(g) Establishing requirements for issuance and retention of an inactive license and/or provisional permits.

SECTION 10. Section 73-67-19, Mississippi Code of 1972, is reenacted as follows:

73-67-19. (1) The board shall report to the proper district attorney all cases that, in the judgment of the board, warrant prosecution.

(2) Massage therapists or establishments may not be discriminated against regarding business licenses and shall be treated as any other health care profession.

(3) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing of the penalty. The notice shall be sent by registered or certified mail. The person to whom the notice is addressed shall have thirty (30) days from the date of mailing of the notice in which to make written application for a hearing. Any person who makes that application shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing. When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, unless the amount of penalty is paid within ten (10) days after the order becomes final, it may be recorded with the circuit clerk in any county of this state. The clerk shall then record the name of the person incurring the penalty and the amount of the penalty in his lien record book.

(4) Where the board proposes to refuse to grant or renew a license or proposes to revoke or suspend a license, an opportunity

for a hearing shall be accorded. The board may designate any competent person(s) to preside at the hearing. The board shall promulgate rules for the conduct of hearings and issuance of orders.

(5) The board may adopt rules requiring any person, including, but not limited to, licensed massage therapists, corporations, organizations, health care facilities and state or local governmental agencies to report to the board any conviction, determination or finding that a holder of a license has committed an act that constitutes unprofessional conduct, or to report information that indicates that the holder of a license may not be able to practice his profession with reasonable skill and safety to consumers as a result of a mental, emotional or physical condition. If the entity fails to furnish a required report, the board may petition the circuit court of the county in which the entity resides or is found, and the court shall issue to the entity an order to furnish the required report. A failure to obey the order is a contempt of court.

(6) A person is immune from civil liability, whether direct or derivative, for providing information to the board.

(7) Upon the complaint of any citizen of this state, or upon its own motion, the board may investigate any alleged violation of this chapter. In the conduct of investigations, the board may take evidence; take the depositions of witnesses, including the person charged; compel the appearance of witnesses, including the

person charged, before the board in person the same as in civil cases; require answers to interrogations; and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(8) The board shall make available, upon request, written appeals procedures for anyone whose license has been denied, suspended or revoked, and/or for anyone accused of violating any provisions of this chapter.

(9) Any time the board intends to deny an application for licensure, or suspend or revoke an existing license, the board shall give the person an opportunity for a hearing before taking final action.

SECTION 11. Section 73-67-21, Mississippi Code of 1972, is amended as follows:

73-67-21. (1) It shall be the responsibility of a massage therapy establishment to verify the current license of any and all persons practicing massage therapy at the location of or on behalf of the establishment. Failure to comply is subject to penalty assessed by the board of not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00) per offense.

(2) No person may advertise massage or practice massage for compensation in this state unless he is licensed as a massage therapist by the board. No person may use the title of or represent himself to be a massage therapist or use any other

title, abbreviations, letters, figures, signs or devices that indicate that the person is a massage therapist unless he is licensed to practice massage therapy under the provisions of this chapter. * * * A current massage therapy license issued by the board shall at all times be prominently displayed in any place where massage therapy is being practiced.

(3) The following are requirements for licensure:

(a) An applicant must be eighteen (18) years of age, or older, on the date the application is submitted.

(b) An application must provide proof of high school graduate equivalency.

(c) An applicant must be of legal status not only to receive a license, but also to work in the State of Mississippi with that license.

(d) An applicant must supply proof of current certification in cardiopulmonary resuscitation (CPR) and first aid of at least eight (8) hours of training, including practical testing, and supply documentation of familiarity with the Americans With Disabilities Act.

(e) All required fees for licensure must be submitted by the applicant.

(f) Any and all requirements regarding good moral character and competency, as provided for in this chapter and in accepted codes of ethics, shall be met.

(g) An applicant must have completed an approved continuing education course on communicable diseases, including HIV/AIDS information and prevention.

(h) The applicant's official and certified transcript(s) from the applicant's massage therapy school. The transcript must verify that the applicant has completed a board-approved training program of no less than the minimum requirement for supervised in-class massage therapy instruction and student clinic, with a minimum grade requirement of "C" or better in every course of instruction, as stated for school requirements.

(4) The following pre-act practitioners are exempt from having to take any examination for licensure, but must fulfill all other requirements as stated in this chapter, except for the requirements in subsection (3)(h) of this section:

(a) Those having more than three hundred (300) documented, board-accepted in-class hours of massage therapy education before January 1, 2001.

(b) Those having more than five (5) years of professional massage therapy experience and a minimum of one hundred fifty (150) hours of approved massage therapy education.

(c) Those having no formal training, but who have successfully passed the National Certification Examination for Therapeutic Massage and Bodywork.

(d) All grandfathering exemption allowances as stated in this subsection (4) shall end on July 1, 2002, for nonstudents, and on June 1, 2003, for students who were enrolled in a part-time massage school curriculum on July 1, 2001. Individuals may apply for a license until the grandfathering exemption ends, but may not practice massage beyond the allowed grace period as provided for in Section 73-67-37 unless a valid massage therapy license or provisional permit is obtained. Except as provided in subsection (5) of this section, all other pre-act practitioners and anyone not practicing massage therapy before January 1, 2001, must take and pass the licensure examination and follow the requirements in this chapter to practice massage therapy for compensation in Mississippi.

(e) Students enrolled in a massage therapy curriculum of at least five hundred (500) hours on July 1, 2001, who complete graduation from the same curriculum.

(5) Any person who has practiced massage therapy for a period of more than twenty-five (25) years before March 14, 2005, who is employed as a massage therapist by a YMCA or YWCA authorized and existing as a nonprofit corporation under the laws of this state on March 14, 2005, is exempt from having to take any examination for licensure, but must fulfill all other requirements as stated in this chapter, except for the requirements in subsection (3)(b), (d), (g) and (h) of this section. Persons exempt under this subsection may apply for a massage therapy

license until January 1, 2006, but may not practice massage therapy after January 1, 2006, unless a valid license is obtained.

(6) Certificates of registration issued by the board before July 1, 2008, shall remain valid as licenses until the next renewal period.

(7) An applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-67-27.

(a) To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

(b) Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in

evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

(c) The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

(d) The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

SECTION 12. Section 73-67-23, Mississippi Code of 1972, is amended as follows:

73-67-23. (1) The purpose of requiring examination is to determine that each applicant for licensure possesses the minimum skills and knowledge to practice competently.

(2) The board shall accept as evidence of competency, in addition to all other requirements as stated in this chapter, the successful completion of * * * any * * * state, nationally or internationally accredited examination approved by the board.

(3) Eligibility requirements to take * * * an examination approved by the board are set by the * * * organization that is responsible for establishing and maintaining the examination.

(4) An applicant for licensure who has been previously licensed may be required to take * * * an examination approved by the board and achieve a passing score before re-licensure under any one (1) of the following circumstances:

(a) The applicant has been unlicensed voluntarily for more than thirty-six (36) calendar months; or

(b) The board may require reexamination in any disciplinary order, based upon the findings and conclusions relative to the competency of a holder of a license to practice massage before issuing an unconditional license.

(5) An applicant for licensure must also successfully complete the Mississippi State Law Examination.

SECTION 13. Section 73-67-25, Mississippi Code of 1972, is amended as follows:

73-67-25. (1) An applicant may be licensed by demonstrating proof that the applicant holds a valid, current license in another state with similar educational requirements to those required by this chapter, and that all other licensure requirements under this

chapter are met. This is subject to investigation by the board and excludes grandfathering by other states.

(2) If an individual who is licensed in another state that has licensing standards substantially equivalent to the standards under this chapter applies for licensure, the board may issue a provisional permit authorizing the applicant to practice massage therapy pending completion of documentation that the applicant meets the requirements for licensure under this chapter * * *. The provisional permit may reflect statutory limitations on the scope of practice. The provisional permit shall not be issued until an applicant has successfully passed the Mississippi State Law Examination.

(3) A current massage therapy license issued by the board shall at all times be prominently displayed in any place where massage therapy is being practiced.

(4) A license issued under this chapter is not transferable or assignable.

SECTION 14. Section 73-67-27, Mississippi Code of 1972, is reenacted as follows:

73-67-27. (1) The board may refuse to issue or renew or may deny, suspend or revoke any license held or applied for under this chapter upon finding that the holder of a license or applicant:

(a) Is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license provided for in this chapter;

(b) Attempted to use as his own the license of another;

(c) Allowed the use of his license by another;

(d) Has been adjudicated as mentally incompetent by regularly constituted authorities;

(e) Has been convicted of a crime, or has charges or disciplinary action pending that directly relates to the practice of massage therapy or to the ability to practice massage therapy. Any plea of nolo contendere shall be considered a conviction for the purposes of this section;

(f) Is guilty of unprofessional or unethical conduct as defined by the code of ethics;

(g) Is guilty of false, misleading or deceptive advertising, or is guilty of aiding or assisting in the advertising or practice of any unlicensed or unpermitted person in the practice of massage therapy;

(h) Is grossly negligent or incompetent in the practice of massage therapy;

(i) Has had rights, credentials or one or more license(s) to practice massage therapy revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee similar to acts described in this section. A certified copy of the record of the jurisdiction making such a revocation, suspension or denial shall be conclusive evidence thereof; or

(j) Has been convicted of any felony, other than a violation of federal or state tax laws.

(2) Investigative proceedings may be implemented by a complaint by any person, including members of the board.

(3) (a) Any person(s) found guilty of prostitution using as any advertisement, claim or insignia of being an actual licensed massage therapist or to be practicing massage therapy by using the word "massage" or any other description indicating the same, whether or not the person(s) have one or more license for the person(s) or establishment(s), shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00), nor more than Five Thousand Dollars ($5,000.00), or imprisonment of up to six (6) months, or both, per offense, per person.

(b) Any person who knowingly participates in receiving illegal service(s) of any person found guilty as described in paragraph (a) of this subsection, upon conviction, shall be punished by a fine not exceeding Five Hundred Dollars ($500.00), or imprisonment for up to one (1) month, or both. Persons officially designated to investigate complaints are exempt.

(c) Any person who violates any provision of this chapter, other than violation(s) of paragraph (a) of this subsection, is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding Five Hundred Dollars

($500.00), or imprisonment for up to one (1) month in jail, or both, per offense.

(d) The board, in its discretion, may assess and tax any part or all of the costs of any disciplinary proceedings conducted against either the accused, the charging party, or both, as it may elect.

SECTION 15. Section 73-67-29, Mississippi Code of 1972, is amended as follows:

73-67-29. (1) Any licensed massage therapist advertising by the use of radio, newspaper, television, electronic media, flyers, business cards, phone book or any other means shall include legibly, or clearly audible, the massage therapy license number issued to the therapist(s) on and/or with that advertising. Massage establishments with six (6) or more licensed massage therapists shall be exempt from this provision provided that the therapy or service is performed by person(s) licensed under this chapter.

(2) Any and all advertising of the licensed massage therapist shall be of a professional and ethical nature and shall not be attached to or identified with any pornographic or other establishment that may be construed as unprofessional and/or unethical in the practice of professional massage therapy.

(3) No practice of, or advertisement by any means of, any type of therapy involving soft tissue movement by the use of any body part, instrument(s) or device(s), or any term that may be

interpreted to involve massage, shiatsu, acupressure, oriental, Eastern or Asian massage techniques, spa, rub, or therapeutic touch, shall be allowed unless that therapy is performed by person(s) who are licensed or exempt as stated in this chapter.

(4) Providing information concerning continuing education of massage therapy shall not constitute advertising as that term is used in this section. National massage publications and out-of-state instruction/education/information materials are exempt.

(5) The advertising of any designation of massage, including the word "Swedish" (as used in this context), shall not be allowed in conjunction with any other term that the board finds questionable. Questionable terms may include "bath," "shampoo" and "escort."

(6) Massage schools that advertise for student clinic, or any other type of student massage, must conspicuously include the respective words "student massage" within the advertisement.

(7) Advertisers shall obtain the license number from each massage therapist before entering into an agreement or contract to advertise any form of massage therapy as stated in this chapter. The license number(s) shall be part of the actual advertisement. Massage establishments with six (6) or more licensed massage therapists shall be exempt from this provision provided that the therapy or service is performed by person(s) licensed under this chapter.

SECTION 16. Section 73-67-31, Mississippi Code of 1972, is reenacted as follows:

73-67-31. (1) All licensed massage therapists shall:

(a) Perform only those services for which they are qualified and which represent their training and education;

(b) Acknowledge their professional limitations and refer the client to an appropriate health professional when necessary, in cases where massage may be or is contraindicated;

(c) Recognize and respect the rights of all ethical practitioners and cooperate with health professionals in a professional manner;

(d) Obtain and keep an overview or profile of the client's state of being and health history and discuss any problem areas that may contraindicate massage;

(e) Keep accurate and up-to-date records regarding a client's condition before and after massage therapy session in cases of a client being treated for a specific condition. Public, sports and on-site seated massage sessions are exempt from documentation; sports massage sessions are exempt from post-event documentation;

(f) Provide sensitive attention and response to client's comfort levels for pressure and touch, and shall not cause bruising with any regularity;

(g) Maintain clear and honest communications with their clients, and acknowledge the confidential nature of the

professional relationship with a client and respect rights to privacy;

(h) Abide by all laws that pertain to their work as a massage therapist;

(i) In no way instigate or tolerate any kind of sexual advance while acting in the capacity of a massage therapist;

(j) Provide and use draping to cover all genitalia;

(k) Clean/disinfect his hands immediately before each massage session and/or use medical gloves.

(2) No massage therapist shall diagnose or prescribe medicine, drugs or treatment.

SECTION 17. Section 73-67-33, Mississippi Code of 1972, is reenacted as follows:

73-67-33. (1) Lavatories or wash basins provided with an adequate supply of both hot and cold running water should be available. Lavatories or wash basins shall be provided with soap in a dispenser and paper, individual use towels, or air dryers.

(2) Any mobile massage shall have a previous recording of the client's name, address where the therapy is to occur, estimated time of return, and phone number (if available) in a conspicuous record.

(3) Every massage establishment shall be equipped with a workable telephone for emergency calls.

(4) A copy of the State of Mississippi Professional Massage Therapy Code of Ethics and Professional Conduct shall be prominently displayed.

SECTION 18. Section 73-67-35, Mississippi Code of 1972, is amended as follows:

73-67-35. (1) To obtain a massage therapy license, an applicant must submit to the board the applicant's official and certified transcript(s) from the applicant's massage therapy school. The transcript must verify that the applicant has completed a board-approved training program of not less than six hundred (600) hours of supervised in-class massage therapy instruction, and at least one hundred (100) hours of student clinic, with a minimum grade requirement of "C" or better in every course of instruction, in the following subjects:

(a) Two hundred (200) hours in massage theory and practicum;

(b) Two hundred (200) hours in science of the human body;

(c) Two hundred (200) hours in allied modalities; and

(d) One hundred (100) hours in supervised student clinic.

(2) "Massage theory and practicum" must include a minimum of the following classroom hours in the specified subject areas:

(a) Ten (10) hours in legalities including Mississippi massage law and ethics;

(b) Twenty (20) hours in history, benefits, indications and contraindications;

(c) One hundred (100) hours in massage demonstration and supervised practice, which must include, but is not limited to, client evaluation, stroking, kneading, stretching, friction, percussion, vibration, range of motion, hand held tools and devices designated as t-bars or knobbies, and draping and turning; and

(d) The remaining seventy (70) hours may expand on any or all of the previous three (3) subject areas and/or be related to practical massage.

(3) "Science of the human body" must include a minimum of the following classroom hours in the specified subject areas:

(a) Twenty (20) hours in anatomy, including all body systems;

(b) Twenty (20) hours in physiology, including all body systems;

(c) Twenty (20) hours in myology/kinesiology;

(d) Twenty (20) hours in neurology;

(e) Twenty (20) hours in pathology, including medical terminology; and

(f) The remaining one hundred (100) hours may expand on any or all of the previous six (6) subject areas and/or be related to the science of the human body.

(4) "Allied modalities" must include, but are not limited to, a minimum of the following classroom hours in the specified subject areas:

(a) Seven (7) hours in Eastern, European and Western theory/methods;

(b) Eight (8) hours in cardiopulmonary resuscitation (CPR) and first aid;

(c) Ten (10) hours in charting and documentation;

(d) Twenty-five (25) hours in hydrotherapy and infrared heat;

(e) Twenty (20) hours in referral methods within the health care system; and

(f) The remaining one hundred thirty (130) hours may expand on any or all of the previous five (5) subject areas, including the Americans With Disabilities Act, and/or be devoted to any approach to massage therapy and wellness, such as trigger points, management, communication, safety, oriental or Eastern massage techniques and specialized populations. Schools with a temporary or probationary board status license must include a comprehensive review class of no less than sixteen (16) hours and three (3) hours to sit for and pass the board comprehensive exam.

(5) "Student clinic" must include at least fifty (50) practical hands-on one-hour massage therapy sessions to be evaluated on documents filed and kept on record at the school for a minimum of six (6) months. These evaluations are to be

completed by the clients of the massage therapy sessions and shall include the client's name, address, reason for session, indications and contraindications, date and signature. Each completed session shall constitute two (2) hours of student clinic. The hands-on session must be supervised by an instructor, board licensed in the area being supervised.

(6) A massage therapy program shall not operate in the State of Mississippi unless it meets the minimum standards of curriculum for licensure as stated in this chapter. Massage schools and massage curriculums for licensure preparation must obtain a national accreditation from such agencies as the Commission on Massage Therapy Accreditation or programs with the same or greater requirements. Existing massage schools will have five (5) years from July 1, 2001, to obtain that accreditation. New massage schools will have five (5) years from the opening of the massage school to show conformance with the accreditation requirements. <u>An existing accredited massage school that loses its accreditation will have three (3) years from the date of loss of its accreditation to show conformance with the accreditation requirements.</u>

(7) No massage therapy program shall consist of more than forty (40) in-class clock hours per week.

(8) Hours credited through transfer credit shall not be recognized by the board unless the following transfer standards are met:

(a) The school shall be provided with a certified transcript from a school licensed or approved in that state;

(b) Courses for which credit is granted shall parallel in content and intensity to the course offered by the school;

(c) Documentation of previous training shall be included in each student's permanent file.

(9) Private business and vocational schools that have obtained national accreditation from an accrediting agency designated by the United States Department of Education may submit evidence of current accreditation in lieu of other application requests. Applications submitted on evidence of national accreditation must be approved or denied within * * * sixty (60) days after receipt. If no action is taken within * * * sixty (60) days, the application shall be deemed approved and a massage therapy license must be issued.

SECTION 19. Section 73-67-37, Mississippi Code of 1972, is reenacted as follows:

73-67-37. The grace period for licenses to be issued shall be from March 28, 2002, until July 1, 2002. Those meeting the minimum requirements as stated in this chapter, except for obtaining a license, may continue the practice of massage therapy or instruction thereof within the grace period. Massage curriculums that begin before July 1, 2001, may continue with the same curriculum until completion. Anyone not meeting the minimum requirements as stated in this chapter shall not advertise massage

therapy or instruction thereof until they meet the minimum requirements of this chapter.

SECTION 20. Section 73-67-39, Mississippi Code of 1972, is amended as follows:

73-67-39. Sections 73-67-1 through 73-67-37 shall stand repealed on July 1, * * * 2018.

SECTION 21. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
February 7, 2013

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 6, 2013

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/27/13
3:22 pm