

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1077

Short Title: Massage and Bodywork Therapies.

(Public)

Sponsors: Representatives Clary; Bonner, Capps, Culp, Dedmon, Earle, Gulley, McAllister, Moore, Morris, Reynolds, Saunders, Sexton, Sherrill, Shubert, Starnes, Thompson, Watson, and Weatherly.

Referred to: Rules, Calendar and Operations of the House.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT REGULATING THE PRACTICE OF MASSAGE AND BODYWORK
3 THERAPIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 90 of the General Statutes is amended by adding a new
6 Article to read:

7 "ARTICLE 33.

8 "Massage and Bodywork Therapies Practice.

9 "**§ 90-520. Short title.**

10 This Article shall be known as the North Carolina Massage and Bodywork Therapies
11 Practice Act.

12 "**§ 90-521. Declaration of purpose.**

13 The General Assembly recognizes that the improper practice of massage and
14 bodywork therapies is potentially harmful to the public. Mandatory licensure of those
15 engaged in the practice of massage and bodywork therapies is necessary to ensure
16 minimum standards of competency and to protect the public health, safety, and welfare.

17 "**§ 90-522. Definitions.**

18 The following definitions apply in this Article:

- 1 (1) Board. – The North Carolina Board of Massage and Bodywork
2 Therapies.
- 3 (2) Board approved school. – Any massage and bodywork therapies school
4 or training program in this State or another state that has met the criteria
5 established by the Board.
- 6 (3) Massage and bodywork therapies. – Systems of activities applied to the
7 soft tissues of the body for therapeutic, educational, or relaxation
8 purposes. The application may include:
- 9 a. Manual techniques.
- 10 b. Passive or active stretching within the normal anatomical range
11 of movement.
- 12 c. Complementary methods, including the external application of
13 water, heat, cold, lubricants, or other topical preparations.
- 14 d. Mechanical devices that mimic or enhance the actions possible
15 by the hands.
- 16 (4) Massage and bodywork therapist. – A person licensed under this
17 Article.
- 18 (5) Practice of massage and bodywork therapies. – The application of
19 massage and bodywork therapies to any person for a fee or other
20 consideration. ‘Practice of massage and bodywork therapies’ does not
21 include the diagnosis of illness or disease, medical procedures,
22 chiropractic adjustive procedures, electrical stimulation, ultrasound,
23 prescription of medicines, or the use of modalities for which a license to
24 practice medicine, chiropractic, physical therapy, occupational therapy,
25 acupuncture, or podiatry is required by law.

26 **§ 90-523. License required.**

27 (a) A person shall not practice or hold out himself or herself to others as a massage
28 and bodywork therapist without first applying for and receiving from the Board a license
29 to engage in that practice.

30 (b) A person holds out himself or herself to others as a massage and bodywork
31 therapist when the person adopts or uses any title or description including ‘massage
32 therapist’, ‘bodywork therapist’, ‘masseur’, ‘masseuse’, ‘massagist’, ‘somatic practitioner’,
33 ‘body therapist’, ‘structural integrator’, or any derivation of those terms that implies this
34 practice.

35 (c) It shall be unlawful to advertise using the term ‘massage therapist’ or
36 ‘bodywork therapist’ or any other term that implies a soft tissue technique or method in
37 any public or private publication or communication by a person not licensed under this
38 Article as a massage and bodywork therapist. Any person who holds a license to practice
39 as a massage and bodywork therapist in this State may use the title ‘Licensed Massage
40 Therapist’ or ‘Licensed Bodywork Therapist’. No other person shall assume these titles
41 or use these abbreviations or any other words, letters, signs, or figures to indicate that the
42 person using the title is a licensed massage and bodywork therapist. An establishment

1 employing or contracting with persons licensed under this Article may advertise on
2 behalf of those persons.

3 **"§ 90-524. Exemptions.**

4 Nothing in this Article shall be construed to prohibit or affect:

- 5 (1) The practice of a profession by persons who are licensed, certified, or
6 registered under other laws of this State and who are performing
7 services within their authorized scope of practice.
- 8 (2) The practice of massage and bodywork therapy by a person employed
9 by the government of the United States while the person is engaged in
10 the performance of duties prescribed by the laws and regulations of the
11 United States.
- 12 (3) The practice of massage and bodywork therapy by persons duly licensed
13 in another state, territory, or the District of Columbia when incidentally
14 called into this State for consultation with a person licensed under this
15 Article.
- 16 (4) Students enrolled in a Board approved school while completing a
17 clinical requirement for graduation that shall be performed under the
18 supervision of a person licensed under this Article.
- 19 (5) A person giving massage and bodywork therapy to members of that
20 person's immediate family.
- 21 (6) The practice of movement educators such as dance therapists or
22 teachers, yoga teachers, personal trainers, martial arts instructors,
23 movement repatterning practitioners, and other such professions.

24 **"§ 90-525. North Carolina Board of Massage and Bodywork Therapies.**

25 (a) The North Carolina Board of Massage and Bodywork Therapies is created. The
26 Board shall consist of seven members who are residents of this State and are as follows:

- 27 (1) Five members shall be massage and bodywork therapists with at least
28 five years of experience in massage and bodywork practice. The
29 appointments shall be made from lists provided by those covered in this
30 Article. Consideration shall be given to geographical distribution,
31 practice setting, clinical specialty, and other factors that will promote
32 diversity of the profession on the Board. One of the five members shall
33 be appointed by the General Assembly, upon the recommendation of the
34 Speaker of the House of Representatives, one shall be appointed by the
35 General Assembly, upon the recommendation of the President Pro
36 Tempore of the Senate, and three shall be appointed by the Governor.
- 37 (2) The remaining two members shall be members of the general public
38 who shall not be licensed under this Article or the spouse of a person
39 who is so licensed, or have any financial interest, direct or indirect, in
40 the profession regulated. One of these members shall be appointed by
41 the General Assembly, upon the recommendation of the Speaker of the
42 House of Representatives, and one shall be appointed by the General

1 Assembly, upon the recommendation of the President Pro Tempore of
2 the Senate.

3 (b) Legislative appointments shall be made in accordance with G.S. 120-121. A
4 vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

5 (c) Each member of the Board shall serve for a term of three years, ending on June
6 30 of the last year of the term. A member shall not be appointed to serve more than two
7 consecutive terms.

8 (d) The Board shall elect annually a chair and other officers as it deems necessary.
9 The Board shall meet as often as necessary for the conduct of business but no less than
10 twice a year. The Board shall establish procedures governing the calling, holding, and
11 conducting of regular and special meetings. A majority of the Board shall constitute a
12 quorum.

13 (e) Each member of the Board may receive per diem and reimbursement for travel
14 and subsistence as set forth in G.S. 93B-5.

15 (f) Members may be removed by the official who appointed the member for
16 neglect of duty, incompetence, or unprofessional conduct. A member subject to
17 disciplinary proceedings as a licensee shall be disqualified from participating in the
18 official business of the Board until the charges have been resolved.

19 **"§ 90-526. Powers and duties.**

20 The Board shall have the following powers and duties:

21 (1) The Board shall at all times represent the diversity within the profession
22 and shall stay informed regarding the various branches of massage and
23 bodywork therapies.

24 (2) Evaluate the qualifications of applicants for licensure under this Article.

25 (3) Issue, renew, deny, suspend, or revoke licenses under this Article.

26 (4) Reprimand or otherwise discipline licensees under this Article.

27 (5) Conduct investigations to determine whether violations of this Article
28 exist or constitute grounds for disciplinary action against licensees
29 under this Article.

30 (6) Conduct administrative hearings in accordance with Chapter 150B of
31 the General Statutes when a contested case, as defined in G.S. 150B-
32 2(2), arises under this Article.

33 (7) Employ professional, clerical, or other special personnel necessary to
34 carry out the provisions of this Article and purchase or rent necessary
35 office space, equipment, and supplies.

36 (8) Establish reasonable fees for applications for examination, certificates
37 of licensure and renewal, and other services provided by the Board.

38 (9) Adopt, amend, or repeal any rules necessary to carry out the purposes of
39 this Article and the duties and responsibilities of the Board, including
40 rules related to the approval of massage and bodywork therapies
41 schools, continuing education providers, examinations for licensure, the
42 practice of advanced techniques or specialties, and massage and
43 bodywork therapies establishments.

- 1 (10) Appoint from its own membership one or more members to act as
 2 representatives of the Board at any meeting where such representation is
 3 deemed desirable.
- 4 (11) Maintain a record of all proceedings and make available to certificate
 5 holders and other concerned parties an annual report of the Board.
- 6 (12) Adopt a seal containing the name of the Board for use on all certificates
 7 and official reports issued by it.
- 8 (13) Approve or establish requirements for bodywork therapies schools,
 9 instructors, education curriculum, examinations for licensure, the
 10 practice of advanced techniques or specialties, and bodywork therapies
 11 establishments.
- 12 (14) Provide a system for grievances to be presented and resolved.

13 The powers and duties set out in this section are granted for the purpose of enabling the
 14 Board to safeguard the public health, safety, and welfare against unqualified or
 15 incompetent practitioners and are to be liberally construed to accomplish this objective.

16 **"§ 90-527. Custody and use of funds.**

17 All fees and other moneys collected and received by the Board shall be used for the
 18 purposes of implementing this Article.

19 **"§ 90-528. Expenses and fees.**

20 (a) All salaries, compensation, and expenses incurred or allowed for the purposes
 21 of this Article shall be paid by the Board exclusively out of the fees received by the
 22 Board as authorized by this Article or from funds received from other sources. In no case
 23 shall any salary, expense, or other obligations of the Board be charged against the State
 24 treasury.

25 (b) The schedule of fees may include the following and may be adjusted as the
 26 Board deems necessary:

27 (1)	<u>Application for examination</u>	<u>\$150.00</u>
28 (2)	<u>License fee</u>	<u>100.00</u>
29 (3)	<u>License renewal</u>	<u>75.00</u>
30 (4)	<u>Late renewal penalty</u>	<u>50.00</u>
31 (5)	<u>License by reciprocity</u>	<u>50.00</u>
32 (6)	<u>Duplicate license</u>	<u>15.00</u>
33 (7)	<u>Provisional license</u>	<u>100.00.</u>

34 **"§ 90-529. Requirements for licensure.**

35 Upon application to the Board and the payment of the required fees, an applicant may
 36 be licensed as a massage and bodywork therapist if the applicant meets all of the
 37 following qualifications:

- 38 (1) Has obtained a high school diploma or equivalent.
- 39 (2) Is 18 years of age or older.
- 40 (3) Is of good moral character as determined by the Board.
- 41 (4) Has successfully completed a course of study consisting of a minimum
 42 of 500 classroom hours of supervised instruction at a Board approved
 43 school.

1 (5) Has successfully passed an examination administered by a certifying
2 agency that has been approved by the National Commission of
3 Certifying Agencies (NCCA) and is in good standing with such agency
4 or has successfully passed an examination administered or approved by
5 the Board.

6 **"§ 90-530. Reciprocity.**

7 (a) An applicant shall be eligible for licensure if the applicant has been licensed in
8 another state that has standards for massage and bodywork therapists that are
9 substantially equivalent to those in this State or the applicant holds a valid certificate
10 from the National Certification Board for Therapeutic Massage and Bodywork or another
11 agency that meets NCCA standards.

12 (b) Upon receipt of an application for reciprocity, the Board shall contact each
13 jurisdiction that has previously certified or licensed the applicant to determine whether
14 there are disciplinary proceedings or unresolved complaints pending against the
15 applicant. In the event a disciplinary proceeding or an unresolved complaint is pending,
16 the applicant shall not be licensed until the proceeding or the complaint has been resolved
17 in the applicant's favor.

18 (c) Reciprocity may not be granted if the state in which the applicant is licensed
19 has not granted a similar reciprocity to licensees in this State.

20 **"§ 90-531. Massage and bodywork therapies schools.**

21 The Board shall establish rules for the approval of massage and bodywork therapies
22 schools. These rules shall include:

23 (1) Basic curriculum standards that ensure graduates have the education and
24 skills necessary to carry out the safe and effective practice of massage
25 and bodywork therapies.

26 (2) Standards for faculty and learning resources.

27 (3) Requirements for reporting changes in instructional staff and
28 curriculum.

29 (4) A description of the process used by the Board to approve a school.

30 Any school that offers a training program in massage and bodywork therapies may
31 make application for approval to the Board. The Board shall grant approval to schools,
32 whether in this State or another state, that meet the criteria established by the Board. The
33 Board shall maintain a list of approved schools.

34 **"§ 90-532. License renewal and continuing education.**

35 The license to practice under this Article shall be renewed every two years. When
36 renewing a license, each licensee shall submit to the Board evidence of the successful
37 completion of at least 25 hours of study, as approved by the Board, during the
38 immediately preceding two years, in the practice of massage and bodywork therapies.

39 **"§ 90-533. Disciplinary action.**

40 The Board may deny, suspend, revoke, or refuse to license a massage and bodywork
41 therapist or applicant for any of the following:

42 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
43 attempting to obtain a license or the renewal of a license.

- 1 (2) The use of drugs or intoxicating liquors to an extent that affects
2 professional competency.
- 3 (3) Conviction of an offense under any municipal, State, or federal narcotic
4 or controlled substance law until proof of rehabilitation can be
5 established.
- 6 (4) Conviction of a felony or other public offense involving moral turpitude
7 until proof of rehabilitation can be established.
- 8 (5) An adjudication of insanity or incompetency until proof of recovery
9 from the condition can be established.
- 10 (6) Engaging in any act or practice in violation of any of the provisions of
11 this Article or of any of the rules adopted by the Board, or aiding,
12 abetting, or assisting any other person in the violation of these
13 provisions or rules.
- 14 (7) The commission of an act of malpractice, gross negligence, or
15 incompetency.
- 16 (8) Practice as a licensee under this Article without a valid certificate or
17 renewal.
- 18 (9) Engaging in conduct that could result in harm or injury to the public.
- 19 (10) The employment of fraud, deceit, or misrepresentation when
20 communicating with the general public, health care professionals, or
21 other business professionals.
- 22 (11) Falsely holding out himself or herself as licensed or certified in any
23 discipline of massage and bodywork therapies without successfully
24 completing training approved by the Board in that specialty.

25 **"§ 90-534. Enforcement; injunctive relief.**

26 (a) It is unlawful for a person not licensed or exempted under this Article to
27 engage in any of the following:

- 28 (1) Practice of massage and bodywork therapies.
- 29 (2) Advertise, represent, or hold out himself or herself to others to be a
30 massage and bodywork therapist.
- 31 (3) Use any title descriptive of any branch of massage and bodywork
32 therapies as provided in G.S. 90-523, to describe his or her practice.

33 (b) A person who violates subsection (a) of this section shall be guilty of a Class 1
34 misdemeanor.

35 (c) The Board may make application to superior court for an order enjoining a
36 violation of this Article. Upon a showing by the Board that a person has violated or is
37 about to violate this Article, the court may grant an injunction or take other appropriate
38 action.

39 **"§ 90-535. Third-party reimbursement.**

40 Nothing in this Article shall be construed to require direct third-party reimbursement
41 to persons licensed under this Article."

1 Section 2. Notwithstanding the provisions of G.S. 90-525(a), as enacted in
2 Section 1 of this act, the terms of initial appointments to the North Carolina Board of
3 Massage and Bodywork Therapies shall be as follows:

4 (1) The terms of the three members appointed by the Governor pursuant to
5 G.S. 90-525(a)(1), as enacted in Section 1 of this act, shall expire June
6 30, 2000.

7 (2) The terms of all other members shall expire June 30, 1999.

8 Section 3. The five initial appointments to the North Carolina Board of
9 Bodywork Therapies pursuant to G.S. 90-525(a)(1), as enacted in Section 1 of this act,
10 shall satisfy all of the provisions of G.S. 90-525(a)(1), except the licensure requirement,
11 and shall satisfy the provisions of G.S. 90-529(1) through (4), as enacted in Section 1 of
12 this act, except the 500 classroom hours of supervised instruction does not have to be in a
13 curriculum that meets the basic guidelines established by the North Carolina Board of
14 Massage and Bodywork Therapies.

15 Section 4. If an applicant does not meet the educational or examinations
16 requirements in G.S. 90-529(4) and (5), as enacted in Section 1 of this act, then for a
17 maximum period of two years after the effective date of this act, the Board may
18 permanently waive those requirements and grant a provisional license to the applicant.
19 At the end of two years after the granting of the provisional license, the applicant shall
20 submit evidence to the Board of his or her compliance with the continuing education
21 requirements in G.S. 90-532, as enacted in Section 1 of this act. Upon receipt of proper
22 documentation, the applicant shall be issued a license to practice massage and bodywork
23 therapies. An applicant for a provisional license shall meet the requirements set forth in
24 G.S. 90-529 (1) through (3), as enacted in Section 1 of this act, and shall submit all of the
25 following for consideration by the Board:

26 (1) Documentation that the applicant has been engaged in the professional
27 practice of massage and bodywork therapies.

28 (2) Documentation of a minimum of 500 hours of professional practice in
29 the field of massage and bodywork therapies.

30 (3) Verification that the applicant has been practicing in the State at the
31 time the application is submitted.

32 (4) Three letters of reference from sources approved by the Board attesting
33 to the sound moral character, professional qualifications, and
34 competence of the applicant.

35 Section 5. This act becomes effective January 1, 1998, and applies to offenses
36 occurring on or after that date.