

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1593

Short Title: Massage and Bodywork Therapy.

(Public)

Sponsors: Senator Ballance.

Referred to: Committee on New Licensing Boards.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT REGULATING THE PRACTICE OF MASSAGE AND BODYWORK THERAPY.

The General Assembly of North Carolina enacts:

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

"ARTICLE 36.

"MASSAGE AND BODYWORK THERAPY PRACTICE.

"§ 90-620. Short title.

This Article shall be known as the North Carolina Massage and Bodywork Therapy Practice Act.

"§ 90-621. Declaration of purpose.

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

"§ 90-622. Definitions.

The following definitions apply in this Article:

(1) Board. – The North Carolina Board of Massage and Bodywork Therapy.

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

24 **"§ 90-623. License required.**

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

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

33 (c) It shall be unlawful to advertise using the term 'massage therapist' or
34 'bodywork therapist' or any other term that implies a soft tissue technique or method in
35 any public or private publication or communication by a person not licensed under this
36 Article as a massage and bodywork therapist. Any person who holds a license to practice
37 as a massage and bodywork therapist in this State may use the title 'Licensed Massage
38 and Bodywork Therapist'. No other person shall assume this title or use an abbreviation
39 or any other words, letters, signs, or figures to indicate that the person using the title is a
40 licensed massage and bodywork therapist. An establishment employing or contracting
41 with persons licensed under this Article may advertise on behalf of those persons.

42 **"§ 90-624. Exemptions.**

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

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

23 **"§ 90-625. North Carolina Board of Massage and Bodywork Therapy.**

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

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

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

3 (c) Each member of the Board shall serve for a term of three years, ending on June
4 30 of the last year of the term. A member shall not be appointed to serve more than two
5 consecutive terms.

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

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

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

17 **"§ 90-626. Powers and duties.**

18 The Board shall have the following powers and duties:

- 19 (1) Represent the diversity within the profession at all times when making
20 decisions and stay current and informed regarding the various branches
21 of massage and bodywork therapy practice.
- 22 (2) Evaluate the qualifications of applicants for licensure under this Article.
- 23 (3) Issue, renew, deny, suspend, or revoke licenses under this Article.
- 24 (4) Reprimand or otherwise discipline licensees under this Article.
- 25 (5) Conduct investigations to determine whether violations of this Article
26 exist or constitute grounds for disciplinary action against licensees
27 under this Article.
- 28 (6) Conduct administrative hearings in accordance with Chapter 150B of
29 the General Statutes when a contested case, as defined in G.S. 150B-
30 2(2), arises under this Article.
- 31 (7) Employ professional, clerical, or other special personnel necessary to
32 carry out the provisions of this Article and purchase or rent necessary
33 office space, equipment, and supplies.
- 34 (8) Establish reasonable fees for applications for examination, certificates
35 of licensure and renewal, and other services provided by the Board.
- 36 (9) Adopt, amend, or repeal any rules necessary to carry out the purposes of
37 this Article and the duties and responsibilities of the Board, including
38 rules related to the approval of massage and bodywork therapy schools,
39 continuing education providers, examinations for licensure, the practice
40 of advanced techniques or specialties, and massage and bodywork
41 therapy establishments. Any rules adopted or amended shall take into
42 account the educational standards of national bodywork and massage
43 therapy associations and professional organizations.

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) Provide a system for grievances to be presented and resolved.

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

12 **"§ 90-627. Custody and use of funds.**

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

15 **"§ 90-628. Expenses and fees.**

16 (a) All salaries, compensation, and expenses incurred or allowed for the purposes
17 of this Article shall be paid by the Board exclusively out of the fees received by the
18 Board as authorized by this Article or from funds received from other sources. In no case
19 shall any salary, expense, or other obligations of the Board be charged against the
20 General Fund.

21 (b) The Board may impose the following fees up to the amounts listed below:

22 (1) Application for examination \$200.00

23 (2) License fee 150.00

24 (3) License renewal 100.00

25 (4) Late renewal penalty 75.00

26 (5) License by reciprocity 100.00

27 (6) Duplicate license 25.00

28 (7) Provisional license 150.00.

29 **"§ 90-629. Requirements for licensure.**

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

33 (1) Has obtained a high school diploma or equivalent.

34 (2) Is 18 years of age or older.

35 (3) Is of good moral character as determined by the Board.

36 (4) Has successfully completed a course of study consisting of a minimum
37 of 500 classroom hours of supervised instruction at a Board-approved
38 school.

39 (5) Has successfully passed an examination administered by a certifying
40 agency that has been approved by the National Commission of
41 Certifying Agencies (NCCA) and is in good standing with such agency
42 or has successfully passed an examination administered or approved by
43 the Board.

"§ 90-630. Reciprocity.

(a) An applicant shall be eligible for licensure if (i) the applicant has been licensed in another state within five years of the application to the Board and the other state has standards for massage and bodywork therapists that are substantially equivalent to those in this State; (ii) the applicant holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork or another agency that meets NCCA standards; or (iii) the applicant meets special requirements established by the Board.

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

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

"§ 90-631. Massage and bodywork therapy schools.

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

- (1) Basic curriculum standards that ensure graduates have the education and skills necessary to carry out the safe and effective practice of massage and bodywork therapy.
- (2) Standards for faculty and learning resources.
- (3) Requirements for reporting changes in instructional staff and curriculum.
- (4) A description of the process used by the Board to approve a school.

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

"§ 90-632. License renewal and continuing education.

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

"§ 90-633. Disciplinary action.

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

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.
- (2) The use of drugs or intoxicating liquors to an extent that affects professional competency.

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

23 **"§ 90-634. Enforcement; injunctive relief.**

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

- 26 (1) Practice of massage and bodywork therapy.
- 27 (2) Advertise, represent, or hold out himself or herself to others to be a
28 massage and bodywork therapist.
- 29 (3) Use any title descriptive of any branch of massage and bodywork
30 therapy, as provided in G.S. 90-623, to describe his or her practice.

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

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

37 **"§ 90-635. Third-party reimbursement.**

38 Nothing in this Article shall be construed to require direct third-party reimbursement
39 to persons licensed under this Article.

40 **"§ 90-636. Regulation by county or municipality.**

41 Nothing in this Article shall be construed to prohibit a county or municipality from
42 regulating persons covered by this Article, however, a county or municipality may not
43 impose regulations that are inconsistent with this Article."

1 Section 2. Notwithstanding the provisions of G.S. 90-625(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 Therapy shall be as follows:

4 (1) The terms of the three members appointed by the Governor pursuant to
5 G.S. 90-625(a)(1), as enacted in Section 1 of this act, shall expire June
6 30, 2001.

7 (2) The terms of all other members shall expire June 30, 2000.

8 Section 3. The five initial appointments to the North Carolina Board of
9 Massage and Bodywork Therapy pursuant to G.S. 90-625(a)(1), as enacted in Section 1
10 of this act, shall satisfy all of the provisions of G.S. 90-625(a)(1), except the licensure
11 requirement, and shall satisfy the provisions of G.S. 90-629(1) through (4), as enacted in
12 Section 1 of this act, except the 500 classroom hours of supervised instruction does not
13 have to be in a curriculum that meets the basic guidelines established by the North
14 Carolina Board of Massage and Bodywork Therapy.

15 Section 4. If an applicant does not meet the educational or examinations
16 requirements in G.S. 90-629(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. 90-632, 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 therapy. An applicant for a provisional license shall meet the requirements set forth in
24 G.S. 90-629 (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 therapy for a minimum of four years
28 prior to the application to the Board.

29 (2) Documentation of a minimum of 500 hours of professional practice in
30 the field of massage and bodywork therapy during the four years prior
31 to the application to the Board.

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

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

37 Section 5. This act becomes effective October 1, 1998, and applies to offenses
38 occurring on or after that date.