

1 HB290  
2 150331-3  
3 By Representative Hubbard (J)  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 19-FEB-13



1 the authority of the board to revoke or suspend licenses; to  
2 increase the penalty violating the act from a Class C  
3 misdemeanor to a Class A misdemeanor; and in connection  
4 therewith to have as its purpose or effect the requirement of  
5 a new or increased expenditure of local funds within the  
6 meaning of Amendment 621 of the Constitution of Alabama of  
7 1901, now appearing as Section 111.05 of the Official  
8 Recompilation of the Constitution of Alabama of 1901, as  
9 amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 34-43-3, 34-43-5, 34-43-6,  
12 34-43-7, 34-43-9, 34-43-11, 34-43-12, 34-43-14, 34-43-15,  
13 34-43-17, 34-43-20, and 34-43-21 of the Code of Alabama 1975,  
14 are amended to read as follows:

15 "§34-43-3.

16 "For purposes of this chapter, the following terms  
17 shall have the following meanings:

18 "(1) ADVERTISE. Distributing a card, flier, sign, or  
19 device to any person or organization, or allowing any sign or  
20 marking on any building, radio, television, or by advertising  
21 by any other means designed to attract public attention.

22 "(2) BOARD. The Alabama Board of Massage Therapy  
23 ~~created pursuant to this chapter.~~

24 "(3) BOARD-APPROVED MASSAGE THERAPY SCHOOL. A school  
25 where massage therapy is taught which is one of the following:

1            "a. If located in Alabama,    is approved by the board  
2 as meeting the minimum established standards of training and  
3 curriculum as determined by the board.

4            "b. If located outside of Alabama,    is recognized by  
5 the board and by a regionally recognized professional  
6 accrediting body.

7            ~~"c. Is a postgraduate training institute accredited  
8 by the Commission on Accreditation for Massage Therapy.~~

9            "(4) ESTABLISHMENT. A site, premises, or business  
10 where massage therapy is practiced by a licensed massage  
11 therapist.

12            "(5) EXAMINATION. A ~~National Certification For  
13 Therapeutic Massage and Bodywork Examination~~ administered by  
14 ~~an independent agency or another nationally or internationally  
15 accredited exam administered by an independent agency per  
16 approval of the board. The examination will be accredited by  
17 the National Committee for Certifying Agencies~~ nationally  
18 recognized competency examination in massage and bodywork that  
19 meets acceptable psychometric principles, is statistically  
20 validated through a job-task analysis under current standards  
21 for educational and professional testing, and has been  
22 approved by the board. The board retains the right to  
23 administer a written, oral, or practical examination.

24            "(6) LICENSE. The credential issued by the board  
25 which allows the licensee to engage in the safe and ethical  
26 practice of massage therapy.

1           "(7) LICENSEE. Any person, business, establishment,  
2 or school holding a license issued by the board.

3           "(8) LICENSURE. The procedure by which an applicant  
4 applies to the board for approval to practice massage therapy  
5 or to operate an establishment.

6           "~~(7)~~(9) MASSAGE THERAPIST. A person licensed  
7 pursuant to this chapter who practices or administers massage  
8 therapy or touch therapy modalities to a patron for  
9 compensation.

10           "~~(8)~~(10) MASSAGE THERAPY INSTRUCTOR. A licensed  
11 massage therapist approved by the board to teach the practice  
12 of massage therapy.

13           "~~(9)~~(11) PERSON. Any individual, firm, corporation,  
14 partnership, organization, association, trustee, lessee,  
15 agent, assignee, or other legal entity.

16           "~~(10)~~(12) SEXUALLY ORIENTED BUSINESS. A sex parlor,  
17 massage parlor, nude studio, modeling studio, love parlor,  
18 adult bookstore, adult movie theater, adult video arcade,  
19 adult motel, or other commercial enterprise which has ~~as its~~  
20 primary any business ~~the~~ offering for sale, rent, or exhibit,  
21 or the exhibit of, items or services intended to provide  
22 sexual stimulation or sexual gratification to the customer.

23           "~~(11)~~(13) STUDENT OF MASSAGE THERAPY. Any person  
24 currently enrolled in an Alabama massage therapy school  
25 program approved by the board.

26           "~~(12)~~ TEMPORARY PERMIT. A ~~temporary permit issued at~~  
27 ~~the request of a massage therapist who is qualified according~~

1 to the Alabama massage therapy law prior to approval by the  
2 board and not to exceed six months.

3 ~~"(13)~~ (14) THERAPEUTIC MASSAGE AND RELATED TOUCH  
4 THERAPY MODALITIES. The mobilization of the soft tissue which  
5 may include skin, fascia, tendons, ligaments, and muscles, for  
6 the purpose of establishing and maintaining good physical  
7 condition. The term shall include effleurage, petrissage,  
8 tapotement, compression, vibration, stretching, heliotherapy,  
9 superficial hot and cold applications, topical applications,  
10 or other therapy which involves movement either by hand,  
11 forearm, elbow, or foot, for the purpose of therapeutic  
12 massage. Massage therapy may include the external application  
13 and use of herbal or chemical preparations and lubricants such  
14 as salts, powders, liquids, nonprescription creams, mechanical  
15 devices such as T-bars, thumpers, body support systems, heat  
16 lamps, hot and cold packs, salt glow, steam cabinet baths, or  
17 hydrotherapy. The term includes any massage, movement therapy,  
18 massage technology, myotherapy, accupressure, deep tissue  
19 therapy, neuromuscular therapy, or reflexology ~~massotherapy,~~  
20 ~~oriental massage techniques, structural integration, or~~  
21 ~~polarity therapy.~~ The term does not include directed movement  
22 therapy including, but not limited to, the Feldenkrais method  
23 of somatic education, the Trager approach to movement  
24 education, the Rosen method, and body-mind centering and  
25 energy field work including, but not limited to, Polarity  
26 Therapy, Reiki, Reflexology, Touch for Health, or Jin Shin Do,  
27 provided these services are not designated or implied to be

1 massage or massage therapy. The term ~~shall~~ also does not  
2 include laser therapy, microwave, injection therapy,  
3 manipulation of the joints, or any diagnosis or treatment of  
4 an illness that normally involves the practice of medicine,  
5 chiropractic, physical therapy, podiatry, nursing,  
6 occupational therapy, veterinary, acupuncture, osteopathy,  
7 orthopedics, hypnosis, ~~or naturopathics,~~ or any other modality  
8 designated by the board.

9 "§34-43-5.

10 "(a) The following persons, offices, or  
11 establishments shall be exempt from this chapter:

12 "(1) A student of massage therapy who is rendering  
13 massage therapy services under the supervision of a licensed  
14 massage therapy instructor, or any other supervisory  
15 arrangement recognized and approved by the board, ~~including,~~  
16 ~~but not limited to, a temporary permit.~~ The student shall be  
17 designated by title clearly indicating the training status of  
18 the student.

19 "(2) Qualified members of other professions who are  
20 licensed and regulated under Alabama law while they are in the  
21 course of rendering services within the scope of their license  
22 or regulation, provided that they do not represent themselves  
23 as massage therapists.

24 "(3) A person giving massages to his or her  
25 immediate family.

26 "(4) Visiting massage therapy instructors from  
27 another state, territory, or country teaching massage therapy,

1 provided that the massage therapy instructor is licensed or  
2 registered as required in his or her place of residence.  
3 Visiting massage instructors teaching continuing education  
4 courses may teach in the state for up to 100 hours per year  
5 without an Alabama license. One hundred hours of continuing  
6 education instruction or more shall require licensure.

7 "(5) Members of the Massage Emergency Rescue Team  
8 (MERT) or any other nationally or internationally recognized  
9 disaster relief association who practice massage therapy in  
10 the state only during a time declared by the Governor to be a  
11 city, county, or state emergency. These therapists may work in  
12 the state for a period of time approved by the board.

13 "(6) Native American healers using traditional  
14 healing practices, ~~provided, however,~~ Native American healers  
15 who use these practices but apply for a license pursuant to  
16 this chapter shall comply with all licensure requirements.

17 "(7) A person acting under the supervision of a  
18 physician, a physical therapist, or a chiropractor within the  
19 scope of their license or regulation, provided that they do  
20 not represent themselves as massage therapists.

21 "(8) The office of a chiropractor, physician, or  
22 physical therapist who employs or contracts with a massage  
23 therapist. It is the specific intent of this subdivision that  
24 a chiropractor, physician, or physical therapist and his or  
25 her office not be required to be licensed as an establishment  
26 under this chapter or be required to obtain any exemption  
27 under this chapter from the board.



1           "(9) Persons using methods which involve only  
2 techniques which are specifically intended to affect the human  
3 energy fields or systems, without intentional soft tissue  
4 manipulation including, but not limited to, Polarity Therapy,  
5 Reiki, Touch for Health, or Jin Shin Do, in which their  
6 services are not designated or implied to be massage or  
7 massage therapy.

8           "(10) Persons who use touch, words, and directed  
9 movement to deepen awareness of existing patterns of movement  
10 in the body as well as to suggest new possibilities of  
11 movement while engaged in the scope of practice of a  
12 profession with established standards and ethics, provided  
13 that their services are not designated or implied to be  
14 massage or massage therapy and involve only incidental contact  
15 or manipulation of soft tissue. These practices include, but  
16 are not limited to, the Feldenkrais method of somatic  
17 education, the Trager approach to movement education, the  
18 Rosen method, and body-mind centering.

19           "(11) A hospital licensed by the Department of  
20 Public Health, including any wellness center and any  
21 outpatient facility or clinic that is located at the main  
22 campus of the hospital or separated from the hospital and  
23 owned, operated, or controlled by the licensed hospital.

24           "(b) Nothing in this chapter shall be construed to  
25 permit massage therapists licensed under this chapter to  
26 administer, dispense, or prescribe drugs, or engage in the  
27 practice of medicine in any manner, including, but not limited

1 to, diagnosing or prescribing drugs for mental, emotional, or  
2 physical diseases, illnesses, or injuries.

3 "§34-43-6.

4 "(a) There is created the Alabama Board of Massage  
5 Therapy. The purpose of the board is to protect the health,  
6 safety, and welfare of the public by ensuring that licensed  
7 massage therapists, massage therapy schools, and massage  
8 therapy instructors meet prescribed standards of education,  
9 competency, and practice. To accomplish this mission, the  
10 board shall establish standards pursuant to this chapter to  
11 complete all board functions in a timely and effective manner  
12 and to provide open and immediate access to all relevant  
13 public information. The board shall communicate its  
14 responsibilities and services to the public as part of its  
15 consumer protection duties. The board shall develop and  
16 implement a long range plan to ensure effective regulation and  
17 consumer protection.

18 "(b) The board shall consist of seven members  
19 appointed by the Governor, subject to confirmation by the  
20 Senate. No member of the board shall serve more than two full  
21 consecutive terms. The members initially appointed to the  
22 board shall be appointed not later than July 16, 1996. Five of  
23 the members initially appointed to the board shall have been  
24 actively engaged in the practice of massage therapy for not  
25 less than three consecutive years prior to the date of their  
26 appointment to the board. Successor members to these initial  
27 five appointees shall be licensees of the board. Two members

1 shall be public members who shall not be licensed, nor have  
2 been licensed in the past, and shall not have any direct  
3 financial interest in the massage therapy profession. Each  
4 board member shall be a high school graduate or shall have  
5 received a graduate equivalency diploma. Each board member  
6 shall be selected upon personal merit and qualifications, not  
7 per membership or affiliation with an association. Each board  
8 member shall be a citizen of the United States and this state  
9 and a resident of this state for two years immediately  
10 preceding the appointment. The membership of the board shall  
11 be inclusive and reflect the racial, gender, geographic,  
12 urban/rural, and economic diversity of the state. As the terms  
13 of members serving on April 28, 2011, expire, or as vacancies  
14 occur, new members shall be appointed so that not more than  
15 one member from each United States Congressional District is  
16 appointed to serve at the same time.

17 ~~"(c) Of the initial seven appointees to the board,~~  
18 ~~three members shall be appointed for terms ending September~~  
19 ~~30, 1997, and four members shall be appointed for terms ending~~  
20 ~~September 30, 1999. Thereafter, successors shall be appointed~~  
21 ~~for terms of four years, each term expiring on September 30.~~

22 ~~"(d) (c)~~ Vacancies on the board occurring prior to  
23 the expiration of a term shall be filled by the Governor  
24 within 30 days of the vacancy to serve for the remainder of  
25 the unexpired term. Each member of the board shall serve until  
26 his or her successor has been duly appointed and qualified.

1           ~~"(e) At the first meeting, and annually thereafter~~  
2           ~~in the month of October, the~~ (d) The board shall annually  
3           elect a chair and vice chair from its membership.

4           ~~"(f) The board shall hold its first meeting within~~  
5           ~~30 days after the initial members are appointed.~~ (e) The board  
6           shall hold meetings during the year as it determines  
7           ~~necessary, two of which shall be the biannual meetings for the~~  
8           ~~purpose of reviewing license applications.~~ Additional meetings  
9           may be held at the discretion of the chair or upon written  
10          request of any three members of the board. A quorum of the  
11          board shall be a majority of the current appointed board  
12          members.

13          ~~"(g) (f) Board members shall not receive compensation~~  
14          ~~for their services, but shall receive the same per diem and~~  
15          ~~allowance as provided to state employees for each day the~~  
16          ~~board meets and conducts business~~ receive one hundred dollars  
17          (\$100) per day for attending sessions of the board or board  
18          committees and, in addition, shall be reimbursed for such  
19          necessary travel expenses as are paid to state employees, to  
20          be paid from fees collected.

21          ~~"(h) (g) The board shall promulgate the rules~~  
22          necessary to implement this chapter pursuant to the  
23          Administrative Procedure Act.

24          ~~"(i) (h) The board may employ, and at its pleasure~~  
25          discharge, an executive ~~secretary~~ director and other officers  
26          and employees which may be necessary, including an attorney,  
27          to implement this chapter. The board shall also outline the

1 duties and fix the compensation and expense allowances of the  
2 employees.

3 ~~"(j)(i)~~ An affirmative vote of a majority of the  
4 members of the board shall be required to grant, suspend, or  
5 revoke a license to practice massage therapy or a license to  
6 operate a massage therapy establishment.

7 ~~"(k)(j)~~ The board shall be financed only from income  
8 accruing to ~~it~~ the board from fees, licenses, other charges  
9 and funds collected by ~~it~~ the board, and any monies that are  
10 appropriated to it by the Legislature.

11 ~~"(i)(k)~~ Each board member shall be accountable to  
12 the Governor for the proper performance of his or her duties  
13 as a member of the board. The board shall report to the  
14 Governor annually and at other times as requested by the  
15 Governor. The Governor shall investigate any complaints or  
16 unfavorable reports concerning the actions of the board and  
17 take appropriate action thereon, including removal of any  
18 board member for misfeasance, malfeasance, neglect of duty,  
19 commission of a felony, incompetence, or permanent inability  
20 to perform official duties. A board member may be removed at  
21 the request of the board after failing to attend two  
22 consecutive properly noticed meetings. Excused absences of a  
23 board member are absences due to any of the following:

24 "(1) Medical problems of a board member or a family  
25 member of the board member including, but not limited to,  
26 illness, surgery, care, and hospitalization.

1                   "(2) Death of a family member and attendance of his  
2 or her funeral.

3                   "(3) Any conflict, extraordinary circumstance, or  
4 event as approved by the chair.

5                   "~~(m)~~(l) Members of the board are immune from  
6 liability for all good faith acts performed in the execution  
7 of their duties as members of the board, unless they fail to  
8 act in a reasonably prudent manner.

9                   "~~(n)~~(m) Appointees to the board shall take the  
10 constitutional oath of office and file it in the board office  
11 ~~of the Governor before undertaking any duties as a board~~  
12 ~~member. Upon receiving the oath, the Governor shall issue a~~  
13 ~~certificate of appointment to each appointee.~~

14                   "§34-43-7.

15                   "(a) By rule, the board shall make provisions to do  
16 all of the following:

17                   "(1) Examine and qualify for examination applicants  
18 for licensure and issue a license to each successful  
19 applicant.

20                   "(2) Adopt a seal, which shall be affixed to all  
21 licenses issued by the board.

22                   "(3) Prescribe application forms for examination and  
23 licensure and assess and collect fees pursuant to this  
24 chapter.

25                   "(4) Maintain a complete record of all licensed  
26 massage therapists and annually prepare a roster of the names  
27 and addresses of the licensees. A copy of this roster shall be

1 made available to any person requesting it, upon payment of a  
2 fee set by the board in an amount sufficient to cover the  
3 costs of its publication and distribution.

4 "(5) Provide for the investigation of persons who  
5 may be violating this chapter.

6 "(6) Adopt and revise rules and regulations pursuant  
7 to the Administrative Procedure Act, including the adoption of  
8 rules concerning unprofessional conduct.

9 "(7) Provide a copy of this chapter to all persons  
10 licensed under this chapter and to all applicants for  
11 licensure.

12 "(8) Adopt rules that require massage therapists to  
13 carry professional and general liability insurance with an "A"  
14 rated or better insurance carrier in the amount of at least  
15 one million dollars (\$1,000,000). The massage therapist shall  
16 produce evidence of coverage upon request of the board.

17 "(9) Have other powers necessary and proper for the  
18 performance of official duties.

19 "(b) By rule, the board may do any of the following:

20 "(1) Accept or deny the application of any person  
21 applying for licensure as a massage therapist upon an  
22 affirmative vote of a majority of the board.

23 "(2) Allow the executive director to accept or deny  
24 the application of any person applying for licensure as a  
25 massage therapist.

26 "~~(2)~~ (3) Establish criteria for certifying massage  
27 therapy instructors.

1           "~~(3)~~(4) Adopt an annual budget and authorize  
2 necessary expenditures from fees and other available  
3 appropriations, ~~provided, in.~~ In no event shall the  
4 expenditures of the board exceed the revenues in any fiscal  
5 year.

6           "~~(4)~~(5) Adopt a code of ethics.

7           "~~(5)~~(6) Provide for the inspection, during normal  
8 business hours, of the business premises of any licensee,  
9 individual, or business holding itself out as licensed by the  
10 board including, but not limited to, advertising as performing  
11 massage therapy services during normal business hours.

12           "~~(6)~~(7) Establish a list of approved massage therapy  
13 schools.

14           "§34-43-9.

15           "(a) A person desiring to be licensed as a massage  
16 therapist shall apply to the board on forms provided by the  
17 board. Unless licensed pursuant to subsection (b), applicants  
18 for licensure shall submit evidence satisfactory to the board  
19 that they have met each of the following requirements:

20           "(1) Satisfactorily completed a minimum of ~~500~~ 650  
21 hours of supervised courses of instruction ~~which shall~~  
22 ~~include, but not be limited to, anatomy, pathology,~~  
23 ~~physiology, massage techniques, clinical practices, ethics,~~  
24 ~~health, hygiene, and related subjects. The board shall~~  
25 ~~determine how the 500 hours of instruction shall be broken~~  
26 ~~down. The course of instruction may be provided by a massage~~  
27 ~~therapy school approved by the board. The minimum 500 hours~~



1 shall consist of the following: ~~325 hours dedicated to the~~  
2 ~~study of basic massage therapy techniques and clinical~~  
3 ~~practice related modalities; 125 hours dedicated to the study~~  
4 ~~of anatomy, pathology, and physiology; and an additional 50~~  
5 ~~hours of discretionary related course work, including, but not~~  
6 ~~limited to, hydrotherapy, business practices and professional~~  
7 ~~ethics, health and hygiene, and cardiopulmonary resuscitation~~  
8 ~~and first aid. Beginning January 1, 1998, applicants for~~  
9 ~~licensure shall be required to complete a minimum of 650 hours~~  
10 ~~of instruction. By rule of the board, the minimum 650 hours~~  
11 ~~shall consist of the following: 100 hours of anatomy and~~  
12 ~~physiology to include 35 hours of myology, 15 hours of~~  
13 ~~osteology, 10 hours of circulatory system, and 10 hours of~~  
14 ~~nervous system, with the remaining 30 hours to address other~~  
15 ~~body systems at the discretion of the school; 250 hours of~~  
16 ~~basic massage therapy, the contradistinctions of massage~~  
17 ~~therapy, and related touch therapy modalities, to include a~~  
18 ~~minimum of 50 hours of supervised massage; 50 hours to include~~  
19 ~~business, hydrotherapy, first aid, cardiopulmonary~~  
20 ~~resuscitation, and professional ethics; and 250 hours of~~  
21 ~~electives to be determined by the school the content of which~~  
22 ~~shall be determined by rule of the board. The board may adopt~~  
23 ~~a rule to further increase the minimum number of hours of~~  
24 ~~instruction required for licensure, not to exceed the number~~  
25 ~~of hours recommended by the National Certification Board for~~  
26 ~~Therapeutic Massage and Bodywork. Before performing~~  
27 ~~therapeutic massage on an animal, a massage therapist shall~~

1 graduate from a nationally approved program and complete at  
2 least 100 hours of postgraduate training and education in  
3 animal anatomy, pathology, and physiology for the type of  
4 animal upon which the massage therapist wishes to perform  
5 therapeutic massage.

6 "(2) ~~Passed the National Certification Exam for~~  
7 ~~Therapeutic Massage and Bodywork offered by the National~~  
8 ~~Certification Board for Therapeutic Massage and Bodywork or an~~  
9 ~~examination of equivalent stature that is accredited by the~~  
10 ~~National Committee for Certifying Agencies~~ a board approved  
11 exam for therapeutic massage and bodywork.

12 "(b) Notwithstanding the requirements in  
13 subdivisions (1) and (2) of subsection (a), the board may  
14 license an applicant if the applicant is licensed or  
15 registered in another state, which, in the opinion of the  
16 board, has standards of practice or licensure that are equal  
17 to or stricter than the requirements imposed by this chapter.

18 "(c) Notwithstanding any other provision of this  
19 section to the contrary, each applicant for licensure shall ~~be~~  
20 ~~a citizen of the United States or, if not a citizen of the~~  
21 ~~United States, a person who is legally present in the United~~  
22 ~~States with appropriate documentation from the federal~~  
23 ~~government~~ comply with federal and state immigration law  
24 requirements and be 18 years of age, with a high school  
25 diploma or graduate equivalency diploma, and be subject to a  
26 criminal history background information check.

1           "(d) The board may notify each applicant of the  
2 acceptance or rejection of his or her application. If the  
3 application is rejected, the board shall list the reasons for  
4 rejection.

5           "§34-43-11.

6           "(a) Establishments shall be licensed by the board.  
7 A sexually oriented business may not be licensed as an  
8 establishment and shall not operate as an establishment  
9 licensed pursuant to this chapter.

10           "(b) Establishments shall employ only licensed  
11 massage therapists to perform massage therapy.

12           "~~(c) The board shall provide by rule, for a fair and~~  
13 ~~reasonable procedure to grant exemptions from the licensure~~  
14 ~~requirement of this section when the applicant can show that~~  
15 ~~the advertising of massage therapy services is incidental to~~  
16 ~~the primary function of his or her business. No such exemption~~  
17 ~~shall be granted to a sexually oriented business. The board~~  
18 ~~shall have the power to revoke or suspend the license of a~~  
19 ~~massage therapy establishment licensed under this chapter, or~~  
20 ~~to deny licensure of such establishment, in any of the~~  
21 ~~following cases:~~

22           "(1) Upon proof that a license has been obtained by  
23 fraud or misrepresentation.

24           "(2) Upon proof that the holder of a license is  
25 guilty of fraud or deceit or of gross negligence,  
26 incompetency, or misconduct in the operation of the  
27 establishment so licensed.

1           "(d) An establishment license issued pursuant to  
2 this chapter is not assignable or transferable.

3           "~~Subsequent to an official complaint, the~~ The  
4 board may conduct or request a criminal history background  
5 information check of the establishment's licensees of an  
6 establishment through the district attorney of the circuit in  
7 which the licensee is located.

8           "(f) The board shall specify the elements of the  
9 criminal history background information check and shall  
10 formulate the process and procedures to conduct such checks.

11           "(g) The renewal of the license of a massage therapy  
12 establishment shall be accomplished pursuant to rules adopted  
13 by the board. The board may also adopt rules governing  
14 delinquent renewal of licenses and may impose penalty fees for  
15 delinquent renewal.

16           "§34-43-12.

17           "(a) Applications for licensure or renewal shall be  
18 on forms provided by the board and shall be accompanied by the  
19 proper fee. The application shall be legible, either printed  
20 in black ink or typed. Applications sent by facsimile shall  
21 not be accepted. A two-by-two photograph, taken no more than  
22 six months earlier, showing a frontal view of the head and  
23 shoulders of the applicant, shall be submitted with the  
24 application. All documents shall be submitted in English.

25           "(b) The board shall issue a license to each person  
26 who qualifies to be a massage therapist and to each qualified  
27 massage therapy establishment. To be qualified for a license

1 as a massage therapist the applicant shall be subject to a  
2 criminal history background information check, successfully  
3 pass the examination, pay the examination fee, and pay the  
4 license fee. A license grants all professional rights, honors,  
5 and privileges relating to the practice of massage therapy.

6 "(c) The board shall specify the elements of the  
7 criminal history background information check, the amount of  
8 the fee assessed for performing the criminal history  
9 background information check, and shall formulate the process  
10 and procedures for conducting criminal history background  
11 information checks.

12 "~~(c)~~ (d) Each licensed massage therapist shall  
13 display his or her license in the manner specified by the  
14 board. Each establishment shall post its license in plain  
15 sight and the license of each massage therapist who practices  
16 in the establishment.

17 "~~(d)~~ (e) A license is the property of the board and  
18 shall be surrendered upon demand of the board.

19 "§34-43-14.

20 "(a) By rule, the board shall initially assess and  
21 collect the following fees not to exceed:

22 "~~(1) One hundred sixty dollars (\$160) for the~~  
23 ~~examination.~~

24 "~~(2) One hundred dollars (\$100)~~ (1) Two hundred  
25 dollars (\$200) for the an initial massage therapist license  
26 which shall be issued for one year. The initial licensing fee  
27 shall be assessed in the month when the applicant is notified

1 ~~that the license has been approved. The board may not increase~~  
2 ~~this fee by more than fifty dollars (\$50) per licensing~~  
3 ~~period.~~

4 ~~"(3) One hundred dollars (\$100)~~ (2) Three hundred  
5 ~~dollars (\$300)~~ for all biennial license renewals postmarked or  
6 received at the office of the board by the date in which the  
7 license expires. ~~The board may not increase this fee by more~~  
8 ~~than fifty dollars (\$50) per licensing period.~~

9 ~~"(4) (3) Twenty-five dollars (\$25)~~ for ~~the~~ an initial  
10 application for licensure or the resubmission of ~~the~~ an  
11 initial application.

12 ~~"(5) One hundred dollars (\$100)~~ (4) Two hundred  
13 ~~dollars (\$200)~~ for ~~the~~ an initial establishment license. ~~The~~  
14 ~~board may not increase this fee by more than fifty dollars~~  
15 ~~(\$50) per licensing period.~~

16 ~~"(6) Fifty dollars (\$50)~~ (5) Three hundred dollars  
17 ~~(\$300)~~ for the biennial renewal of ~~the~~ an establishment  
18 license. ~~The board may not increase this fee by more than~~  
19 ~~fifty dollars (\$50) per licensing period.~~

20 ~~"(7) Fifty dollars (\$50)~~ (6) Two hundred dollars  
21 ~~(\$200)~~ for ~~the~~ initial registration as a massage therapy  
22 school ~~in this state.~~

23 ~~"(8) Ten dollars (\$10)~~ (7) One hundred dollars  
24 ~~(\$100)~~ to renew ~~the~~ registration as a massage therapy school.

25 ~~"(9) Ten dollars (\$10)~~ ~~to register~~ (8) Twenty-five  
26 ~~dollars (\$25) for initial and renewal licenses~~ as a massage

1 therapy instructor ~~in this state. This is a one-time fee and~~  
2 ~~does not have to be renewed.~~

3 "~~(10)~~(9) Seventy-five dollars (\$75) ~~to reactivate~~  
4 biennially to receive an inactive license.

5 "~~(11)~~(10) Twenty-five dollars (\$25) shall be added  
6 to all license fees not post-marked or received by the board  
7 before the expiration date of the license.

8 "~~(12)~~(11) Fifteen dollars (\$15) to verify a license.

9 "~~(13)~~(12) Ten dollars (\$10) for a duplicate license  
10 certificate or a name change on a license certificate. ~~The~~  
11 ~~board may issue a duplicate certificate only after receiving a~~  
12 ~~sworn letter from the massage therapist that the original~~  
13 ~~certificate was lost, stolen, or destroyed. The records of the~~  
14 ~~board shall reflect that a duplicate certificate was issued.~~

15 "(b) The continuing education provider fee charged  
16 by the board may not exceed two hundred dollars (\$200).

17 "~~(b)~~(c) Necessary administrative fees may be charged  
18 by the board, including, but not limited to, reasonable costs  
19 for copying, labels, and lists. Examination and license fees  
20 may be adjusted as the board shall deem appropriate.

21 "~~(c)~~(d) There is ~~hereby~~ established a separate  
22 special revenue trust fund in the State Treasury to be known  
23 as the Alabama Board of Massage Therapy Fund. All receipts  
24 collected by the board under ~~the provisions of~~ this chapter  
25 are to be deposited in this fund and used only to carry out  
26 the provisions of this chapter. ~~Such receipts~~ Receipts shall  
27 be disbursed only by warrant of the ~~state~~ Comptroller, upon

1 itemized vouchers approved by the chair of the board; provided  
2 that no funds shall be withdrawn except as budgeted and  
3 allotted according to ~~the provisions of~~ Sections 41-4-80 to  
4 41-4-96, inclusive, 41-19-1, and 41-19-12, as amended, and  
5 only in amounts as stipulated in the general appropriations  
6 bill or other appropriations bills.

7 "§34-43-15.

8 "(a) The board may suspend, or revoke, ~~or refuse to~~  
9 ~~issue or renew~~ a license or and impose a civil penalty after  
10 notice and opportunity for a hearing pursuant to the  
11 Administrative Procedure Act, upon proof of any of the  
12 following:

13 "(1) The license was obtained by means of fraud,  
14 misrepresentation, or concealment of material facts, including  
15 making a false statement on an application or any other  
16 document required by the board for licensure.

17 "(2) The licensee sold or bartered, or offered to  
18 sell or barter, or a license for a massage therapist or a massage  
19 therapy establishment.

20 "(3) The licensee has engaged in unprofessional  
21 conduct that has endangered or is likely to endanger the  
22 health, safety, and welfare of the public, as defined by the  
23 rules of the board.

24 "(4) The licensee has been convicted of a felony or  
25 of any crime involving a sexual offense or any crime arising  
26 out of or connected with the practice of massage therapy.



1           "(5) The licensee has violated or aided and abetted  
2 in the violation of this chapter.

3           "(6) The licensee is adjudicated as mentally  
4 incompetent by a court of law.

5           "(7) The licensee uses controlled substances or  
6 habitually and excessively uses alcohol.

7           "(8) The licensee engaged in false, deceptive, or  
8 misleading advertising.

9           "(9) The licensee had a license revoked, suspended,  
10 or denied in any other territory or jurisdiction of the United  
11 States for any act described in this section or was convicted  
12 of practicing massage therapy without a license in another  
13 state.

14           "(10) The licensee is practicing or offering to  
15 practice beyond the scope permitted by law or accepting and  
16 performing professional responsibilities which the licensee  
17 knows or has reason to know that she or he is not competent to  
18 perform.

19           "(11) The licensee is delegating professional  
20 responsibilities to a person when the licensee delegating such  
21 responsibilities knows or has reason to know that such person  
22 is not qualified by training, experience, or licensure to  
23 perform.

24           "(12) The licensee is violating a lawful order of  
25 the board previously entered in a disciplinary hearing or is  
26 failing to comply with a lawfully issued subpoena of the  
27 board.

1           "(13) The licensee has failed to permit the board to  
2 inspect the business premises of the licensee during regular  
3 business hours.

4           "(14) The licensee is practicing massage therapy at  
5 a site, location, or place which is not duly licensed as a  
6 massage therapy establishment.

7           "(b) Any person who has been convicted of, or  
8 entered a plea of nolo contendere to, a crime or offense  
9 involving prostitution or other sexual offenses is ineligible  
10 to hold a license as a massage therapist for a period of at  
11 least three years after the entry of the conviction or plea.  
12 The board retains the right to revoke a license indefinitely  
13 if the licensee is proven guilty of a crime or of sexual  
14 misconduct. Reinstatement of licensure is contingent upon  
15 proof of weekly counseling by a licensed professional  
16 counselor.

17           "(c) Any person who has been convicted of, or  
18 entered a plea of nolo contendere to, an offense involving  
19 prostitution or any other type of sexual offense may not  
20 receive a license for a massage therapy establishment for a  
21 period of three years after the date of conviction or entry of  
22 the plea. The board shall revoke the establishment license of  
23 any establishment which the board determines is a sexually  
24 oriented business. The board may revoke an establishment  
25 license if a person is convicted of, or enters a plea of nolo  
26 contendere to, any crime involving prostitution or any other

1 sexual offense against a client which occurred on the premises  
2 of the establishment.

3 "(d) (1) Upon finding a person, licensee, or  
4 establishment guilty of any violation governed by this  
5 chapter, ~~performing massage therapy without having obtained a~~  
6 ~~license,~~ the board may do any of the following:

7 "a. Impose an administrative fine of not more than  
8 ten thousand dollars (\$10,000).

9 "b. Issue a cease and desist order.

10 "c. Petition the circuit court of the county where  
11 the ~~act~~ violation occurred to enforce the cease and desist  
12 order and collect the assessed fine.

13 "(2) ~~Any~~ An appeal by a person aggrieved by ~~any an~~  
14 adverse action of the board ~~must appeal the action~~ shall be to  
15 the Circuit Court of Montgomery County in accordance with the  
16 Alabama Administrative Procedure Act.

17 "§34-43-17.

18 "Any person who violates this chapter shall be  
19 guilty of a Class ~~C~~ A misdemeanor.

20 "§34-43-20.

21 "(a) To be approved by the board, a massage therapy  
22 school shall meet all of the following requirements:

23 "(1) File a completed application prescribed by the  
24 board with the board and pay a registration fee as specified  
25 in Section 34-43-14.

1           "(2) Provide documentation of a curriculum which  
2 includes a minimum number of required hours of instruction in  
3 the subjects required pursuant to Section 34-43-9.

4           "(3) Register annually with the board by filing a  
5 renewal form accompanied with the renewal fee pursuant to  
6 Section 34-43-14, and submit a current curriculum and a list  
7 of instructors.

8           "(b) Every instructor teaching course work ~~titled in~~  
9 massage ~~therapy~~ modalities at a board approved school located  
10 in Alabama shall be licensed in Alabama as a massage therapist  
11 and registered as a massage therapy instructor. Instructors  
12 who are not teaching massage therapy do not need to be  
13 registered. Any adjunct instructors shall be dually licensed  
14 in the state where they reside, be nationally certified, or  
15 both.

16           "(c) The board shall register as a massage therapy  
17 instructor any applicant who meets all of the following  
18 requirements:

19           "(1) Is currently licensed as a massage therapist in  
20 Alabama.

21           "(2) Has filed a completed application prescribed by  
22 the board and paid a ~~one-time application~~ fee pursuant to  
23 Section 34-43-14.

24           "(3) Documents ~~two~~ four years of experience in the  
25 practice of massage therapy. The documentation may be  
26 considered by the board on a case-by-case basis.

27           "§34-43-21.

1           "(a) Every massage therapist licensed pursuant to  
2 this chapter shall be required to complete 16 hours of  
3 continuing education as a condition for renewing his or her  
4 license. The continuing education courses shall be offered by  
5 providers approved by the board. The courses shall have been  
6 completed within the 24 months preceding the date renewal is  
7 due. Hours in excess of the total number required may not be  
8 carried over to future renewals. The continuing education  
9 requirements shall not apply to a massage therapist within the  
10 biennium when the massage therapist is first licensed, but  
11 shall apply to licensees every biennium thereafter. The board  
12 may accept for compliance with the continuing education  
13 requirement any of the following:

14           "(1) Courses or providers which contribute directly  
15 to the massage therapy education of the licensee.

16           "(2) Courses, seminars, workshops, and classes in  
17 areas related to the practice of massage therapy such as:  
18 Massage, bodywork, allied health care fields (including  
19 psychology and medicine), anatomy and physiology, business,  
20 insurance, movement therapy, stress management, yoga, CPR, and  
21 advanced first aid.

22           "(3) Courses of study offered by registered massage  
23 therapy schools in Alabama, or by massage therapy instructors  
24 registered with the board, or by any national organization in  
25 the field of massage therapy or related touch therapy field.

1           "(b) Up to 25 percent, or four hours of credit, of  
2 the required number of hours of continuing education may be  
3 earned in each of the following areas:

4           "(1) Teaching a qualifying class, course, seminar,  
5 or workshop.

6           "(2) Publishing an article in the field relating to  
7 massage therapy.

8           "(3) Speaking on the subject of massage therapy.

9           "(4) Being a panelist discussing massage therapy.

10          "(5) Participating in a personal growth class.

11          "(6) Two hours of professional ethics.

12          "(c) Each of the areas listed in subsection (b) may  
13 be used for up to four hours of credit depending on the actual  
14 contact hours. One continuing education credit is defined as  
15 no less than 50 uninterrupted minutes of learning, except that  
16 publishing an article will automatically count for four hours.  
17 Continuing education credit may not be awarded for programs  
18 which do not relate to subjects listed in this section, or for  
19 repeated courses submitted the previous biennium, except for  
20 courses listed in subsection (b). The board may select, in a  
21 random manner, license renewal applications for audit of  
22 continuing education credit. Each licensee shall be  
23 responsible for maintaining in his or her personal files the  
24 certificates or records of credit from continuing education  
25 programs received from approved program providers. Each  
26 licensee selected for audit shall be required to produce

1 documentation of attendance at those continuing education  
2 activities listed on his or her renewal application.

3 ~~"(1) The board shall send to each licensee selected~~  
4 ~~for audit, a notice of audit.~~ The licensee shall provide  
5 satisfactory documentation of attendance at, or participation  
6 in, the approved continuing education programs listed in the  
7 renewal application.

8 "(2) The licensee shall ascertain that the  
9 continuing education program is approved by the board.

10 "(d) The board shall evaluate applications from all  
11 providers of continuing education programs, including massage  
12 therapy schools and instructors, in order to determine if  
13 approval shall be granted or denied.

14 ~~"(1) The provider or licensee shall submit to the~~  
15 board an application on a form provided by the board. Only  
16 applications which are complete will be considered.

17 ~~"(2) The provider or licensee shall submit a~~  
18 ~~complete application to the board at least 60 days prior to~~  
19 ~~the date on which the training event is to be given to gain~~  
20 ~~approval before the program is presented.~~

21 "(e) The board is subject to the Alabama Sunset Law  
22 of 1981, and is classified as an enumerated agency pursuant to  
23 Section 41-20-3. The board shall automatically terminate on  
24 October 1, 2007, and every four years thereafter, unless  
25 continued pursuant to the Alabama Sunset Law."

26 Section 2. Although this bill would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621, now  
3 appearing as Section 111.05 of the Official Recompilation of  
4 the Constitution of Alabama of 1901, as amended, because the  
5 bill defines a new crime or amends the definition of an  
6 existing crime.

7 Section 3. All laws or parts of laws which conflict  
8 with this act are repealed, and specifically, Section  
9 34-43-10, Code of Alabama 1975, providing for the massage  
10 therapist examination, is repealed.

11 Section 4. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Boards, Agencies  
and Commissions..... . . . . . 19-FEB-13

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . . 04-APR-13

Read for the third time and passed  
as amended..... . . . . . 18-APR-13

Yeas 98, Nays 0, Abstains 1

Jeff Woodard  
Clerk