

SB137 INTRODUCED



1 SB137
2 DEELTTH-1
3 By Senator Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 20-Feb-24

1
2
3
4 SYNOPSIS:

5 Under existing law, termination dates are
6 established for enumerated state agencies. The agencies
7 are periodically reviewed by the Alabama Sunset
8 Committee. After the review process is completed, the
9 committee prepares its recommendations for the agencies
10 to the Legislature in the form of sunset bills which
11 either continue, terminate, or continue with
12 modification each agency reviewed.

13 This bill would provide for the termination of
14 the Alabama Board of Massage Therapy, the creation of a
15 new Alabama Massage Therapy Licensing Board, and the
16 transfer of all powers and responsibilities of the
17 former board to the new board.

18 This bill would also provide for the temporary
19 extension of the renewal date of any license or
20 registration issued by the former board.

21 Section 111.05 of the Constitution of Alabama of
22 2022, prohibits a general law whose purpose or effect
23 would be to require a new or increased expenditure of
24 local funds from becoming effective with regard to a
25 local governmental entity without enactment by a 2/3
26 vote unless: it comes within one of a number of
27 specified exceptions; it is approved by the affected
28 entity; or the Legislature appropriates funds, or



SB137 INTRODUCED

provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Alabama Board of Massage Therapy; to create the Alabama Massage Therapy Licensing Board pursuant to a new Chapter 43A, Title 34, Code of Alabama 1975; to provide for the membership and organization of the new board; to provide for the transfer of all powers, duties, rights, records, and property from the former board to the new board; to temporarily extend the renewal date of certain licenses and registrations issued by the former board; to repeal Chapter 43, Title 34, Code of Alabama 1975, providing for the Alabama Board of Massage Therapy; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the



SB137 INTRODUCED

meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the termination of the Alabama Board of Massage Therapy, with the additional recommendation for statutory change as set out in Section 3.

Section 2. The existence and functioning of the Alabama Board of Massage Therapy, created and functioning pursuant to Chapter 43 of Title 34, Code of Alabama 1975, is terminated, and those code sections are expressly repealed.

Section 3. Chapter 43A is added to Title 34 of the Code of Alabama 1975, to read as follows:

§34-43A-1. Short title.

This chapter shall be known and may be cited as the Alabama Massage Therapy Licensing Act.

§34-43A-2. Definitions.

For purposes of this chapter, the following terms have the following meanings:

(1) ADVERTISE. To distribute a card, flier, sign, or device to any individual or entity, or allow any sign or marking on any building, radio, television, or to publicize by any other means designed to attract public attention.

(2) BOARD. The Alabama Massage Therapy Licensing Board created by this chapter.

(3) EXAMINATION. The National Certification Board for Therapeutic Massage and Bodywork Examination or the Federation of State Massage Therapy Board's Massage and Bodywork



SB137 INTRODUCED

Licensing Examination administered by an independent agency or another nationally or internationally accredited examination administered by an independent agency approved by the board, or state examination administered by the board. The national examination shall be accredited by the National Commission for Certifying Agencies. The board may also administer a written, oral, or practical examination.

(4) LICENSE. The credential issued by the board which allows the holder to engage in the safe and ethical practice of massage therapy.

(5) MASSAGE THERAPIST. An individual licensed pursuant to this chapter who practices or administers massage therapy or related touch therapy modalities to a patron for compensation.

(6) MASSAGE THERAPY ESTABLISHMENT. A site, premises, or business where massage therapy is practiced by a massage therapist.

(7) MASSAGE THERAPY INSTRUCTOR. A massage therapist who is approved by the board to teach the practice of massage therapy.

(8) MASSAGE THERAPY or RELATED TOUCH THERAPY MODALITIES. a. The mobilization of the soft tissue which may include skin, fascia, tendons, ligaments, and muscles, for the purpose of establishing and maintaining good physical condition.

b. The term includes effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold applications, topical applications,



SB137 INTRODUCED

or other therapy that involves movement either by hand, forearm, elbow, or foot, for the purpose of therapeutic massage, and any massage, movement therapy, massage technology, myotherapy, massotherapy, oriental massage techniques, structural integration, acupressure, or polarity therapy.

c. The term massage therapy may include the external application and use of herbal or chemical preparations and lubricants including, but not limited to, salts, powders, liquids, nonprescription creams, cups, mechanical devices such as T-bars, thumpers, body support systems, heat lamps, hot and cold packs, salt glow, steam cabinet baths, or hydrotherapy.

d. The term does not include laser therapy, microwave, injection therapy, manipulation of the joints, or any diagnosis or treatment of an illness that normally involves the practice of medicine, chiropractic, physical therapy, podiatry, nursing, midwifery, occupational therapy, veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathics.

(9) MASSAGE THERAPY SCHOOL. A school, approved by the board, where massage therapy is taught and which is one of the following:

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

b. If located outside of Alabama, recognized by the board and by a regionally recognized professional accrediting body.



SB137 INTRODUCED

c. A postgraduate training institute accredited by the Commission on Massage Therapy Accreditation.

(10) SEXUALLY-ORIENTED BUSINESS. A sex parlor, massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult motel, or other commercial enterprise which has the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the patron.

(11) STUDENT. Any individual who is enrolled in a massage therapy school.

§34-43A-3. Regulated activities.

Except as specifically provided by this chapter, no individual may do any of the following unless licensed pursuant to this chapter:

(1) Advertise that he or she performs massage therapy or related touch therapy modalities.

(2) Hold himself or herself out to the public as a massage therapist, using any name or description denoting himself or herself as a massage therapist, or purporting to have the skills necessary to perform massage therapy.

(3) Practice massage therapy.

§34-43A-4. Exemptions.

(a) The following individuals, offices, and establishments are exempt from this chapter:

(1) A student who is rendering massage therapy services under the supervision of a massage therapy instructor, or any other supervisory arrangement recognized and approved by the



SB137 INTRODUCED

board including, but not limited to, a temporary permit. A student shall be designated by title clearly indicating his or her training status.

(2) A qualified member of another profession who is licensed and regulated under state law while in the course of rendering services within the scope of his or her license, provided that the individual does not represent himself or herself as a massage therapist.

(3) An individual providing massages to his or her immediate family.

(4) An individual offering massage therapy instruction who is visiting from another state, territory, or country, provided that the individual is licensed or registered as required in his or her place of residence. A visiting instructor may teach continuing education courses in this state for up to 100 hours per year without being licensed by the board. A visiting instructor who teaches continuing education courses in this state for 100 hours or more per year is required to be licensed by the board.

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

(6) A Native American healer using traditional healing practices. A Native American healer who applies to the board



SB137 INTRODUCED

for a massage therapist license shall comply with all licensing requirements.

(7) An individual acting under the supervision of a physician, a physical therapist, or a chiropractor within the scope of his or her license, provided that the individual does not represent himself or herself as a massage therapist.

(8) The office of a chiropractor, physician, or physical therapist which employs or contracts with a massage therapist who is exempt from an establishment license.

(b) Nothing in this chapter shall be construed to authorize massage therapists to administer, dispense, or prescribe drugs, or engage in the practice of medicine in any manner including, but not limited to, nutrition, diagnosing or prescribing drugs for mental, emotional, or physical disease, illness, or injury.

§34-43A-5. Alabama Massage Therapy Licensing Board.

(a)(1) There is created the Alabama Massage Therapy Licensing Board. The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that massage therapists, massage therapy schools, and massage therapy instructors meet prescribed standards of education, competency, and practice. To accomplish this mission, the board shall establish standards to ensure completion of all board functions in a timely and effective manner and to provide open and immediate access to all relevant public information. The board shall communicate its responsibilities and services to the public as part of its consumer protection duties. The board shall develop and implement a long range



SB137 INTRODUCED

plan to ensure effective regulation and consumer protection.

(2) All rights, duties, records, property, real or personal, and all other effects existing in the name of the Alabama Board of Massage Therapy, formerly created and functioning pursuant to Chapter 43, or in any other name by which that board has been known, shall continue in the name of the Alabama Massage Therapy Licensing Board. Any reference to the former Alabama Board of Massage Therapy, or any other name by which that board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Massage Therapy Licensing Board as created in this chapter. All actions of the former Alabama Board of Massage Therapy or the executive director of the former board done prior to June 1, 2024, are approved, ratified, and confirmed.

(3) The status of any individual or entity properly licensed or registered by the former Alabama Board of Massage Therapy on June 1, 2024, shall continue under the jurisdiction of the Alabama Massage Therapy Licensing Board. Any license or registration subject to renewal on or before October 1, 2024, pursuant to this chapter shall be temporarily extended by three months unless and until otherwise provided by rule of the board.

(b)(1) The board shall consist of the following nine members:

- a. Three active licensees appointed by the Governor.
- b. Two active licensees and one at-large member appointed by the Lieutenant Governor.
- c. Two active licensees and one at-large member



SB137 INTRODUCED

appointed by the Speaker of the House of Representatives.

(2) The seven active massage therapist licensee members of the board shall be appointed so that not more than one active licensee member from each United States Congressional District in the state is appointed to serve at the same time. The two members appointed from the state at large shall have never been licensed as massage therapists nor have had any direct financial interest in the massage therapy profession. One of the at-large members shall have extensive knowledge of sex trafficking and related law enforcement efforts to defeat sex trafficking. The at-large member appointed by the Lieutenant Governor and the at-large member appointed by the Speaker of the House of Representatives shall be appointed from a list of three names each provided by the Minority Leader of the Senate and the Minority Leader of the House of Representatives, respectively. The appointing authorities shall coordinate their appointments to assure the board membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.

(3) The members initially appointed to the board shall be appointed not later than July 1, 2024. Each board member shall be selected upon personal merit and qualifications, not per membership or affiliation with an association. Each board member shall be a citizen of the United States and a resident of this state for two years immediately preceding appointment. No member of the board shall serve more than two full consecutive terms.

(c) Of the initial nine appointees to the board, three



SB137 INTRODUCED

members shall be appointed for terms of two years, three members shall be appointed for terms of three years, and three members shall be appointed for terms of four years as determined by lottery. Thereafter, successors shall be appointed for terms of four years, each term expiring on June 30.

(d) Vacancies on the board occurring prior to the expiration of a term shall be filled by the original appointing authority within 30 days after the vacancy, to serve for the remainder of the unexpired term. Each member of the board shall serve until his or her successor has been duly appointed and qualified.

(e) The board shall hold its first meeting within 30 days after the initial members are appointed. At the first meeting, and annually thereafter in the month of October, the board shall elect a chair and a vice chair from its membership. The board shall hold two biannual meetings for the purpose of reviewing license applications. The board may hold additional meetings at the discretion of the chair and four members of the board. A quorum of the board shall be a majority of the current appointed board members. Upon the written request of any individual, submitted to the board at least 24 hours in advance of a scheduled meeting, the meeting shall be recorded in a manner established by the Secretary of State.

(f) Board members shall not receive compensation for their services, but shall receive the same per diem and allowance as provided to state employees for each day the



SB137 INTRODUCED

309 board meets and conducts business.

310 (g) (1) The board may employ, and at its pleasure
311 discharge, an executive secretary and other officers and
312 employees as necessary to implement this chapter. The
313 executive secretary, subject to the approval of the board,
314 shall also outline the duties and fix the compensation and
315 expense allowances of each employee of the board. The
316 compensation of the executive secretary shall not be increased
317 without the prior approval of the Sunset Committee.

318 (2) When necessary, the board may retain outside
319 counsel who satisfies the qualifications required of a deputy
320 attorney general.

321 (h) An affirmative vote of a majority of the members of
322 the board shall be required to grant, suspend, or revoke a
323 license to practice massage therapy or a license to operate a
324 massage therapy establishment.

325 (i) The board shall be financed only from income
326 accruing to the board from fees, licenses, other charges and
327 funds collected by the board, and any monies that are
328 appropriated to the board by the Legislature.

329 (j) A board member may be removed at the request of the
330 board for misfeasance, malfeasance, neglect of duty,
331 commission of a felony, incompetence, permanent inability to
332 perform official duties, or failing to attend two consecutive
333 properly noticed meetings within a one-year period.

334 (k) Members of the board are immune from liability for
335 all good faith acts performed in the execution of their duties
336 as members of the board.



SB137 INTRODUCED

(1) Appointees to the board shall take the constitutional oath of office and shall file the oath in the office of the Governor before undertaking any duties as a board member. Upon receiving the oath, the Governor shall issue a certificate of appointment to each appointee.

§34-43A-6. Powers and duties of board.

(a) The board shall do all of the following:

(1) Qualify applicants to take the licensing examination and issue licenses to successful applicants.

(2) Adopt a seal and affix the seal to all licenses issued by the board. All licenses shall be on pre-printed, sequentially numbered certification forms.

(3) Create application forms for examination and licensing and assess and collect fees pursuant to this chapter.

(4) Maintain a complete record of all massage therapists and annually prepare a roster of the names and addresses of those licensees. A copy of the roster shall be provided to any individual upon request and the payment of a fee established by the board in an amount sufficient to cover the costs of publication and distribution.

(5) Provide for the investigation of any individual who is suspected of violating this chapter.

(6) Adopt and revise rules as necessary to implement this chapter pursuant to the Administrative Procedure Act. All administrative rules of the former Alabama Board of Massage Therapy existing on June 1, 2024, which reference Chapter 43, shall remain in effect as rules of the Alabama Massage Therapy



SB137 INTRODUCED

Licensing Board until amended or repealed by that board.

(7) Provide a copy of this chapter to all licensees and applicants for a license.

(8) By rule, require massage therapists, massage therapy establishments, and massage therapy schools to carry professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars (\$1,000,000). Proof of coverage shall be provided to the board upon request.

(9) Perform other functions necessary and proper for the performance of official duties.

(b) The board may do any of the following:

(1) Accept or deny the application of any individual applying for a license as a massage therapist upon an affirmative vote of a majority of the board.

(2) By rule, establish criteria for certifying massage therapy instructors.

(3) Adopt an annual budget and authorize necessary expenditures from fees and other available appropriations. The expenditures of the board may not exceed the revenues of the board in any fiscal year.

(4) Adopt a code of ethics.

(5) Provide for the inspection of the business premises of any licensee during normal business hours.

(6) Establish a list of approved massage therapy schools.

§34-43A-7. License required; sexually-oriented businesses; limitations on advertising or offers of service.



SB137 INTRODUCED

(a) No individual may perform the duties of a massage therapist unless he or she holds a valid license issued by the board.

(b) A massage therapist may not perform massage therapy for a sexually-oriented business, and shall be subject to all sections of Article 3 of Chapter 12 of Title 13A.

(c) A massage therapist may not advertise or offer to perform services outside the scope of his or her expertise, experience, and education for any client who is ill or has a physical dysfunction, unless the services are performed in conjunction with a licensed physician, physical therapist, or chiropractor.

(d) A massage therapist or massage therapy establishment may not advertise or offer to perform services on any sexually explicit website or online platform that promotes prostitution, sexually explicit services, or human trafficking.

§34-43A-8. Application for license; licensing requirements.

(a) An individual desiring to be licensed as a massage therapist shall apply to the board on forms provided by the board. Unless licensed pursuant to subsection (b), an applicant for a license shall submit evidence satisfactory to the board that he or she has met all of the following requirements:

(1)a. Completed a minimum of 650 hours of instruction which shall consist of all of the following:

1. One hundred hours of anatomy and physiology,



SB137 INTRODUCED

including 35 hours of myology, 15 hours of osteology, 10 hours of circulatory system, and 10 hours of nervous system, with the remaining 30 hours addressing other body systems at the discretion of the massage therapy school.

2. Two hundred fifty hours of basic massage therapy, the contradistinctions of massage therapy, and related touch therapy modalities, including a minimum of 50 hours of supervised massage.

3. Fifty hours of business, hydrotherapy, first aid, cardiopulmonary resuscitation, professional ethics, and state massage therapy laws.

4. Two hundred fifty hours of electives as determined by the massage therapy school.

b. The board, by rule, may increase the minimum number of hours of instruction required for a license, not to exceed the number of hours recommended by the National Certification Board for Therapeutic Massage and Bodywork.

c. In addition to paragraphs a. and b., to perform therapeutic massage on an animal, a massage therapist shall have also graduated from a nationally approved program and completed at least 100 hours of postgraduate training and education in animal anatomy, pathology, and physiology for the specific type of animal upon which he or she will perform therapeutic massage.

(2) Successfully passed a state board exam or a national standardized examination approved by the board. The board may approve other state exams on a case-by-case basis.

(3) Completed a criminal history background check as



SB137 INTRODUCED

required by the board which spans the lifetime of the applicant.

(4) Paid all applicable fees.

(b) Notwithstanding the requirements listed in subdivisions (1) and (2) of subsection (a), the board may license an applicant who is licensed or registered to practice massage therapy in another state if the standards of practice or licensing of that state, at the time the applicant was originally licensed or registered, were equal to or stricter than the requirements imposed by this chapter. All applicants may be subject to an initial in-person board hearing determined by the board.

(c) Upon receipt of an application, the board shall notify the applicant that his or her application is pending and shall also notify the applicant upon the approval or rejection of his or her application. If an application is rejected, the board shall notify the applicant of the reasons for the rejection.

§34-43A-9. Licensing of massage therapy establishments; initial inspection.

(a) No massage therapy establishment shall operate in this state without a license issued by the board.

(b) A sexually-oriented business may not operate as a massage therapy establishment or be licensed by the board pursuant to this chapter.

(c) A massage therapy establishment shall contract with or employ only licensed massage therapists to perform massage therapy. Every massage therapist shall be registered with the



SB137 INTRODUCED

board and one of them shall be designated as the individual who will ensure that the massage therapy establishment complies with state law and all applicable administrative rules.

(d) A massage therapy establishment license is not assignable or transferable.

(e) If the holder of a massage therapy establishment license moves the location of the massage therapy establishment without changing either the name or ownership of that massage therapy establishment, the board shall waive the new establishment license fee, if documentation set by rule of the board is approved. This subsection shall not change the expiration date of a massage therapy establishment license.

(f) (1) Except as provided in subdivision (2), each applicant for a massage therapy establishment license shall complete a criminal history background check pursuant to rules adopted by the board.

(2) An applicant for a massage therapy establishment license, who is a massage therapist and has completed a criminal history background check as required by the board within the preceding two years, is exempt from completing the criminal history background check required in subdivision (1).

(g) The physical location of a proposed massage therapy establishment shall be subject to an initial inspection by the board before a massage therapy establishment license is granted to the applicant.

(h) If the physical location of a massage therapy establishment has been shut down by the board or by local,



SB137 INTRODUCED

state, or federal law enforcement, the physical location is permanently prohibited from being licensed or operating as a massage therapy establishment.

§34-43A-10. Application forms; issuance of license; display of license.

(a) Applications for licensing and renewal of a license shall be on forms provided by the board and shall be accompanied by the applicable fee. A recent two-by-two inch photograph showing a frontal view of the head and shoulders of the applicant, taken no more than six months earlier, shall be submitted with each application. All documents shall be submitted in English.

(b) Each applicant for a license shall complete a criminal history background check pursuant to rules adopted by the board. The board may deny the application of any applicant who refuses to complete the criminal history background check as required by the board.

(c) The board shall issue a license, on a pre-printed sequentially numbered form, to each individual who qualifies to be a massage therapist and to each qualified applicant for a massage therapy establishment license. To be qualified for a license as a massage therapist the applicant shall successfully pass the applicable examination, pay the appropriate examination fee, complete a criminal history background check pursuant to rules adopted by the board, pay the criminal history background check fee, and pay the license fee. A license grants all professional rights, honors, and privileges relating to the practice of massage therapy.



SB137 INTRODUCED

(d) Each massage therapist shall display his or her license in the manner specified by the board. Each massage therapy establishment shall prominently post its license, and the license of each massage therapist who practices within the massage therapy establishment, in plain sight at the massage therapy establishment.

(e) A license is the property of the board and shall be surrendered upon demand of the board.

§34-43A-11. License renewal; reinstatement.

(a) Each license shall be renewed biennially, on or before the anniversary date, by forwarding to the board a renewal application accompanied by the renewal fee. Except as provided in Section 34-43A-5(a)(3), any license not renewed biennially on or before the anniversary date shall expire.

(b) Each licensee, upon application for renewal of a license, shall do both of the following:

(1) Submit evidence of satisfactory completion of the continuing education requirements pursuant to Section 34-43A-19.

(2) Complete a new criminal history background check pursuant to rules adopted by the board. The board may deny the application for renewal of any licensee who refuses to complete a criminal history background check as required by the board.

(c) Licenses are valid for two years from the date of issuance. An individual whose license has expired and who has ceased to practice massage therapy for a period of not longer than five years may have his or her license reinstated upon



SB137 INTRODUCED

payment of a renewal fee, payment of a reactivation fee, payment of a late fee, and the submission of a renewal application and evidence satisfactory to the board that the applicant has fulfilled continuing education requirements, completed a criminal history background check, paid the criminal history background check fee, and passed the examination.

(d) Subsequent to an official complaint, the board may request a criminal history background check of the licensee through the district attorney of the circuit in which the licensee is located.

§34-43A-12. Alabama Massage Therapy Licensing Board Fund.

(a) The board, by rule, shall assess and collect all of the following fees not to exceed:

(1) One hundred dollars (\$100) for an initial massage therapist license.

(2) One hundred dollars (\$100) for a biennial license renewal postmarked or received at the office of the board on or before the expiration date of the license.

(3) One hundred dollars (\$100) for an initial, and fifty dollars (\$50) for any renewal of, a massage therapy establishment license.

(4) One hundred fifty dollars (\$150) for an initial registration, and any renewal registration, as a massage therapy school in this state.

(5) One hundred dollars (\$100) to register and renew registration as a massage therapy instructor in this state.



SB137 INTRODUCED

(6) Seventy-five dollars (\$75) to reactivate an expired license.

(7) Twenty-five dollars (\$25) shall be added to any license fees not postmarked or received at the office of the board on or before the expiration date of the license.

(8) Ten dollars (\$10) for a duplicate license certificate or a name change on a license certificate. The board may issue a duplicate certificate for each massage therapy establishment on file with the board where the massage therapist practices massage therapy. The board may issue additional duplicate certificates only after receiving a sworn letter from the massage therapist that an original certificate was lost, stolen, or destroyed. The board shall maintain a record of each duplicate certificate issued.

(b) Necessary administrative fees may be charged by the board including, but not limited to, reasonable costs for copying, labels, and lists, and the actual costs for completing a criminal history background check. Examination and license fees may be adjusted by rule of the board.

(c) Commencing on June 1, 2024, the name of the separate special revenue trust fund in the State Treasury known as the Alabama Board of Massage Therapy Fund shall be renamed and then known as the Alabama Massage Therapy Licensing Board Fund. All receipts collected by the board under this chapter shall be deposited in this fund and used only to carry out this chapter. Receipts shall be disbursed only by warrant of the Comptroller, upon itemized vouchers approved by the chair of the board. No funds shall be



SB137 INTRODUCED

withdrawn except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, 41-19-1, and 41-19-12, and only in amounts as stipulated in the general appropriations bill or other appropriations bills.

§34-43A-13. Complaints; grounds for suspension, revocation, etc., of license; penalties; rulemaking authority.

(a) Any individual may file with the board a written complaint regarding an allegation of impropriety by a massage therapist, massage therapy establishment, or other individual. Complaints shall be made in the manner prescribed by the board. Complaints received by the board shall be referred to a standing investigative committee consisting of a board member, the executive director, the board attorney, and the board investigator. If no probable cause is found, the investigative committee may dismiss the charges and prepare a statement, in writing, of the reasons for that decision. If found guilty, the board shall turn all records relating to the investigation over to local law enforcement.

(b) If probable cause is found, the board shall initiate an administrative proceeding. Upon a finding that the licensee has committed any of the following misconduct, the board may suspend, revoke, or refuse to issue or renew a license or impose a civil penalty after notice and opportunity for a hearing pursuant to the Administrative Procedure Act:

(1) The license was obtained by means of fraud, misrepresentation, fraudulent transcripts, invalidated exam scores, or concealment of material facts, including making a false statement on an application or any other document



SB137 INTRODUCED

required by the board for licensing.

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

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

(4) The licensee has been convicted of a felony or of any crime arising out of or connected with the practice of massage therapy.

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

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

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

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

(9) The licensee engaged in or attempted to or offered to engage a client in sexual activity, including, but not limited to, genital contact, within the client-massage therapist relationship.

(10) The licensee has knowingly allowed the massage therapy establishment to be used as an overnight sleeping accommodation.

(11) The licensee had a license revoked, suspended, or denied in any other territory or jurisdiction of the United



SB137 INTRODUCED

States for any act described in this section.

(12) The applicant or licensee was convicted of impersonating a massage therapist in another jurisdiction.

(c) (1) An individual governed by this chapter, who has a reasonable belief that another massage therapist has violated this chapter, shall inform the board in writing within 30 calendar days after the date the individual discovers this activity. Upon finding that an individual has violated this subsection, the board shall alert local law enforcement and may do any of the following:

a. Impose an administrative fine of not more than ten thousand dollars (\$10,000) according to a disciplinary infraction fine schedule adopted by rule of the board.

b. Suspend or revoke the individual's license to practice massage therapy.

(2) Upon a finding that an individual has violated this subsection, shall impose a mandatory license suspension and a fine of ten thousand dollars (\$10,000).

(d) The license of any individual who has been convicted of, or has entered a plea of nolo contendere to, a crime or offense involving prostitution or any other type of sexual offense shall be permanently revoked by the board according to the Administrative Procedures Act.

(e) The massage therapy establishment license of any massage therapy establishment wherein an individual has been convicted of, or entered a plea of nolo contendere to, an offense involving prostitution or any other type of sexual offense against a client, or which the board determines is a



SB137 INTRODUCED

sexually-oriented business, shall be permanently revoked by the board according to the Administrative Procedures Act.

(f)(1) Upon a finding that an individual, who is governed by this chapter, has performed massage therapy without having obtained a license, the board may do any of the following:

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

b. Issue a cease and desist order.

c. Petition the circuit court of the county where the act occurred to enforce the cease and desist order and collect the assessed fine.

(2) Any individual aggrieved by any adverse action of the board may appeal the action to the Circuit Court of Montgomery County.

(g) The board shall present any incident of misconduct to the local district attorney for review and appropriate action.

(h) The board may adopt rules to implement and administer this section.

§34-43A-14. Use of words massage or bodywork or other advertising descriptions by unlicensed individuals.

An individual who does not hold a license as a massage therapist, physical therapist, chiropractor, or athletic trainer, or a license for a massage therapy establishment, shall not use the words massage or bodywork on any sign or other form of advertising describing services performed by the individual or within the establishment. Any advertisement by a



SB137 INTRODUCED

729 massage therapist or massage therapy establishment shall
730 contain the license number of the massage therapist or massage
731 therapy establishment.

732 §34-43A-15. Criminal penalties.

733 Any individual who violates this chapter shall be
734 guilty of a Class C misdemeanor.

735 §34-43A-16. Injunction; civil penalty.

736 (a) In addition to the criminal penalty prescribed by
737 this chapter, the board may seek an injunction against any
738 individual or establishment in violation of this chapter.

739 (b) In an action for an injunction, the board may
740 demand and recover a civil penalty of fifty dollars (\$50) per
741 day for each violation, reasonable attorney fees, and court
742 costs.

743 §34-43A-17. Construction with other regulations.

744 (a) Except as otherwise provided in subsection (b),
745 this chapter shall supersede any regulation adopted by a
746 political subdivision of the state related to the licensing or
747 regulation of massage therapists and massage therapy
748 establishments.

749 (b) This section shall not affect:

750 (1) Local regulations relating to zoning requirements
751 or occupational license taxes pertaining to massage therapists
752 and massage therapy establishments.

753 (2) Local regulations that do not relate to the
754 practice of massage therapy by qualified individuals.

755 (c) A county, or a municipality within its
756 jurisdiction, may regulate individuals licensed pursuant to



SB137 INTRODUCED

this chapter. Regulation shall be consistent with this chapter and shall not supersede this chapter. This section shall not be construed to prohibit a county or municipality from regulating individuals not licensed pursuant to this chapter.

§34-43A-18. Massage therapy schools; instructors.

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

(1) Submit to the board a completed application prescribed by the board and the registration fee specified in Section 34-43A-12.

(2) Provide documentation of a curriculum which includes a minimum number of required hours of instruction in the subjects required by Section 34-43A-8.

(3) Register annually with the board by submitting a renewal form, the renewal fee specified in Section 34-43A-12, and a then current curriculum and list of active massage therapy instructors teaching at the school.

(b) Every massage therapy instructor teaching a course in massage therapy at a massage therapy school located in this state shall be licensed by the board as a massage therapist and registered as a massage therapy instructor. Instructors who are not teaching massage therapy do not need to be registered. An adjunct massage therapy instructor shall be dually licensed in the state where he or she resides or be nationally certified, or both.

(c) An applicant for registration as a massage therapy instructor shall satisfy all of the following requirements:

(1) Be currently licensed as a massage therapist in



SB137 INTRODUCED

785 this state.

786 (2) Submit to the board a completed application as
787 prescribed by the board and the one-time application fee
788 specified in Section 34-43A-12.

789 (3) Submit documentation of three years of experience
790 in the practice of massage therapy. The documentation may be
791 considered by the board on a case-by-case basis.

792 §34-43A-19. Sunset provision; continuing education.

793 (a) The board is subject to the Alabama Sunset Law of
794 1981, and is classified as an enumerated agency pursuant to
795 Section 41-20-3. The board shall automatically terminate on
796 October 1, 2025, and every four years thereafter, unless
797 continued pursuant to the Alabama Sunset Law.

798 (b) The board shall adopt a program of continuing
799 education for licensees which shall be a requisite for the
800 renewal of licenses issued pursuant to this chapter and not
801 exceed the requirements of a board-approved nationally
802 recognized board certification organization such as the
803 National Certification Board for Therapeutic Massage and
804 Bodywork.

805 Section 4. The Legislature concurs in the
806 recommendations of the Sunset Committee as provided in
807 Sections 1, 2, and 3.

808 Section 5. Although this bill would have as its purpose
809 or effect the requirement of a new or increased expenditure of
810 local funds, the bill is excluded from further requirements
811 and application under Section 111.05 of the Constitution of
812 Alabama of 2022, because the bill defines a new crime or



SB137 INTRODUCED

813 amends the definition of an existing crime.

814 Section 6. This act shall become effective June 1,

815 2024.