

SB137 ENGROSSED



1 SB137
2 1M6SZ33-2
3 By Senator Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 20-Feb-24



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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 under the jurisdiction of the Secretary of State 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 Secretary of State and 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 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



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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 Sections 34-43-1 through 34-43-21, Chapter 43 of Title 34, Code of Alabama 1975, is terminated, and those code sections are expressly repealed.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

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

§34-43A-2

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 to allow any sign or marking to be placed or broadcast on any building, radio, television, the Internet, or through other electronic means or to participate in the publication of any of these in a manner 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 Licensing Examination administered by an independent agency or another nationally or internationally accredited examination administered by an independent agency approved by the board,



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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) EXECUTIVE DIRECTOR. The Secretary of State, or his or her designee.

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

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

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

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

(9) 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, or other therapy that involves movement either by hand,



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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, mechanical devices such as T-bars, cups, 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.

(10) 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 and otherwise provided in this chapter.

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



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body.

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

(11) 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 client.

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

§34-43A-3

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

(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



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141 other supervisory arrangement recognized and approved by the
142 board including, but not limited to, a temporary permit. A
143 student shall be designated by title clearly indicating his or
144 her training status.

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

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

152 (4) An individual offering massage therapy instruction
153 who is visiting from another state, territory, or country,
154 provided that the individual is licensed or registered as
155 required in his or her place of residence and holds
156 certification from a nationally recognized professional
157 accrediting organization approved by the board. A visiting
158 instructor may teach continuing education courses in this
159 state for up to 100 hours per year without being licensed by
160 the board. A visiting instructor who teaches continuing
161 education courses in this state for 100 hours or more per year
162 is required to be licensed by the board.

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



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(6) A Native American healer using traditional healing practices. A Native American healer who applies to the board for a massage therapist license shall comply with all licensing requirements.

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

(8) The office of a chiropractor, physician, or physical therapist which employs or contracts with a massage therapist.

(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, providing nutrition advice or diagnosing or prescribing drugs for mental, emotional, or physical disease, illness, or injury.

§34-43A-5

(a) (1) There is created the Alabama Massage Therapy Licensing Board under the jurisdiction of the office of the Secretary of State. The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that massage therapists, massage therapy establishment licensees, massage therapy schools, and massage therapy instructors meet prescribed standards of education, competency, and practice. To accomplish the purposes of this mission, the board shall establish standards to ensure completion of all board



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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, upon the recommendation of the executive director, shall develop and implement a long range 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 under the jurisdiction of the office of the Secretary of State. 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



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three months, and may be temporarily extended for two additional months if determined necessary by 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 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



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be appointed effective 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 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 on or before August 1, 2024. At the initial 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 quarterly 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 then serving



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281 appointed board members. All meetings of the board shall be
282 recorded electronically and a copy of the recording shall be
283 made available, upon request, for 30 calendar days following
284 the date of the recording.

285 (f) Board members shall not receive compensation for
286 their services, but shall receive the same per diem and
287 allowance as provided to state employees for each day the
288 board meets and conducts business.

289 (g) (1) The Secretary of State shall be the executive
290 director of the board and may outline the duties of and
291 employ, and at his or her discretion discharge, certain
292 officers, investigators, and employees as necessary to
293 implement this chapter. Employees of the board shall not be
294 subject to or governed by the state Merit System law but shall
295 be entitled to all benefits accruing to Merit System employees
296 including, but not limited to, the right to accumulate leave,
297 participate in the Employees' Retirement System, and
298 participate in the State Employees' Health Insurance Plan.

299 (2) When necessary, the board may retain outside
300 counsel who satisfies the qualifications required of a deputy
301 attorney general.

302 (h) An affirmative vote of a majority of the members of
303 the board shall be required to grant, suspend, or revoke a
304 license to practice massage therapy or a license to operate a
305 massage therapy establishment.

306 (i) The board shall be financed only from income
307 accruing to the board from fees, licenses, other charges and
308 funds collected by the board, and any monies that are



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309 appropriated to the board by the Legislature.

310 (j) The executive director, at the request of the
311 board, may remove a member of the board for misfeasance,
312 malfeasance, neglect of duty, commission of a felony,
313 incompetence, permanent inability to perform official duties,
314 or failing to attend two consecutive properly noticed meetings
315 within a one-year period.

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

319 (l) Within the first six months after appointment, each
320 new board member shall complete board member training provided
321 by the Department of Examiners of Public Accounts and Alabama
322 Ethics training provided by the Alabama Ethics Commission.

323 (m) All appointees to the board shall take the
324 constitutional oath of office and shall file the oath in the
325 office of the Governor before undertaking any duties as a
326 board member. Upon receiving the oath, the Governor shall
327 issue a certificate of appointment to each appointee.

328 §34-43A-6

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

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

332 (2) Adopt a seal and affix the seal to all licenses
333 issued by the board.

334 (3) Create application forms for examination and
335 licensing and assess and collect fees authorized by this
336 chapter.



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(4) Maintain a complete record of all massage therapists and annually prepare a roster of the names and addresses of those licensees. An electronic 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 production and distribution.

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

(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 Licensing Board until amended or repealed by that board.

(7) Provide an electronic copy of this chapter, and any amendment made to this chapter, to licensees and applicants for licensing, upon request.

(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 or massage



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therapy establishment license 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

(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 of 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 licensee may not participate in the publication



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of or advertise or offer to perform services on any sexually explicit website or online platform that promotes prostitution, sexually explicit services, or human trafficking. The board shall report any alleged violation of this subsection to local law enforcement for further investigation and potential prosecution.

§34-43A-8

(a) An applicant for licensing 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 at a massage therapy school consisting of all of the following:

1. One hundred hours of anatomy and physiology, 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, as determined by 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 law.

4. Two hundred fifty hours of electives as determined



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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, or a successor organization approved by the board.

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 examination or a national standardized examination approved by the board. The board may approve other state's exams on a case-by-case basis.

(3) Completed a criminal history background check as required by the board.

(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. Before the issuance of an initial license or renewal pursuant to this subsection, an applicant may be subject to a hearing before



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the board to obtain additional information from the applicant that is relevant to the decision of the board in granting or denying the license or renewal. All hearings under this subsection shall be conducted pursuant to the Administrative Procedure Act and failure of the applicant to appear at the hearing may result in the denial of his or her application or renewal.

(c) Upon receipt of an application, the board shall notify the applicant that his or her application is pending. If the board requires additional information from the applicant, the board shall notify the applicant and the applicant shall provide the requested information to the board within 10 business days. The board shall also notify the applicant of the approval or denial of his or her application. If an application is denied, the board shall notify the applicant in writing of the reasons for the denial.

§34-43A-9

(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 associated with or working at a massage therapy establishment shall be registered with the board and one of the licensed massage therapists shall be designated as the licensee who ensures that the massage



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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 upon the receipt of appropriate documentation from the licensee. The documentation required by the board for the waiver shall be established by rule of the board. 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 is shut down by the board or by local, state, or



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federal law enforcement, that physical location, for one year following the closure, may not be licensed or operate as a massage therapy establishment. After the one year prohibition expires, an applicant for a massage therapy establishment license for that physical location must appear before the board before his or her application may be approved or denied.

§34-43A-10

(a) An application for initial licensing or renewal of a license shall be submitted on forms provided by the board and accompanied by the applicable fee, as provided in Section 34-43A-12, and 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 before application. All documents shall be submitted in English.

(b) The board may deny the application of any applicant who refuses to complete a criminal history background check as required by the board pursuant to Section 34-43A-8(a)(3) or Section 34-43A-9(f).

(c) Each license issued by the board to a qualified massage therapist applicant or a massage therapy establishment applicant shall be on a preprinted sequentially numbered form. A license shall grant all professional rights, honors, and privileges relating to the practice of massage therapy.

(d) Each massage therapist shall display his or her license and photograph, as provided in subsection (a), in a conspicuous manner as specified by rule of the board. Each massage therapy establishment shall prominently post its license, and the license and photograph of each massage



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therapist, as provided in subsection (a), who practices at the
massage therapy establishment, in plain sight within 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

(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
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



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applicant has fulfilled continuing education requirements, completed a criminal history background check, and paid any criminal history background check fees required by this chapter.

§34-43A-12

(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.

(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



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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 on a preprinted sequentially numbered form, and the preprinted sequential number of the original certificate shall be noted on the duplicate certificate.

(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 within the monetary limits established by this chapter.

(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 executive director, or his or her designee. No funds shall be 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.



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§34-43A-13

(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 may be anonymous and 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 provide a statement, in writing, to the massage therapist, massage therapy establishment, or other individual of the reasons for that decision. The statement may also include the name of the complainant, upon request of the massage therapist, massage therapy establishment, or other individual to whom the written statement is provided.

(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 shall 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, transcripts from a non-approved school, invalidated examination scores, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensing.



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

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

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

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

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

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

661 (8) The licensee engaged in false, deceptive, sexually
662 explicit, or misleading advertising.

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

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

670 (11) The licensee had a license revoked, suspended, or
671 denied in any other territory or jurisdiction of the United
672 States for any act described in this section.



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

(c) 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.

(d) 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:

(1) 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.

(2) Suspend or revoke the individual's license to practice massage therapy.

(e) In addition to 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, 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 following a hearing conducted pursuant to the Administrative Procedure Act.

(f) The massage therapy establishment license of any



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701 massage therapy establishment wherein an individual has been
702 convicted of, or entered a plea of nolo contendere to, an
703 offense involving prostitution or any other type of sexual
704 offense against a client, or which the board determines is a
705 sexually-oriented business, shall be permanently revoked by
706 the board following a hearing conducted pursuant to the
707 Administrative Procedure Act.

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

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

714 b. Issue a cease and desist order.

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

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

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

724 (i) The board may adopt rules to implement and
725 administer this section upon the recommendation of the
726 executive director.

727 §34-43A-14

728 An individual who does not hold a license as a massage



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

§34-43A-15

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

§34-43A-16

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

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

§34-43A-17

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

(b) This section shall not affect:

(1) Local regulations relating to zoning requirements



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or occupational license taxes pertaining to massage therapists and massage therapy establishments.

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

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

(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.

(4) On or before July 1, 2025, be certified by the National Certification Board for Therapeutic Massage and Bodywork as an assigned school.

(b) Every massage therapy instructor teaching a course in massage therapy at a massage therapy school located in this



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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 this state.

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

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

§34-43A-19

(a) The board is subject to the Alabama Sunset Law of 1981, and is classified as an enumerated agency pursuant to Section 41-20-3. The board shall automatically terminate on October 1, 2026, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

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



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813 Bodywork.

814 Section 4. The Legislature concurs in the
815 recommendations of the Sunset Committee as provided in
816 Sections 1, 2, and 3.

817 Section 5. Although this bill would have as its purpose
818 or effect the requirement of a new or increased expenditure of
819 local funds, the bill is excluded from further requirements
820 and application under Section 111.05 of the Constitution of
821 Alabama of 2022, because the bill defines a new crime or
822 amends the definition of an existing crime.

823 Section 6. This act shall become effective June 1,
824 2024.



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825
826
827 Senate

828 Read for the first time and referred20-Feb-24
829 to the Senate committee on Fiscal
830 Responsibility and Economic
831 Development

832
833 Read for the second time and placed22-Feb-24
834 on the calendar:
835 0 amendments

836
837 Read for the third time and passed29-Feb-24
838 as amended
839 Yeas 34
840 Nays 0
841 Abstains 0

842
843
844 Patrick Harris,
845 Secretary.
846