

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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29 for statutory change as set out in Section 3.

30 Section 2. The existence and functioning of the Alabama
31 Board of Massage Therapy, created and functioning pursuant to
32 Sections 34-43-1 through 34-43-21, Chapter 43 of Title 34,
33 Code of Alabama 1975, is terminated, and those code sections
34 are expressly repealed.

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

37 §34-43A-1

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

40 §34-43A-2

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

43 (1) ADVERTISE. To distribute a card, flier, sign, or
44 device to any individual or entity, or to allow any sign or
45 marking to be placed or broadcast on any building, radio,
46 television, the Internet, or through other electronic means or
47 to participate in the publication of any of these in a manner
48 designed to attract public attention.

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

51 (3) EXAMINATION. The National Certification Board for
52 Therapeutic Massage and Bodywork Examination or the Federation
53 of State Massage Therapy Board's Massage and Bodywork
54 Licensing Examination administered by an independent agency or
55 another nationally or internationally accredited examination
56 administered by an independent agency approved by the board,



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57 or state examination administered by the board. The national
58 examination shall be accredited by the National Commission for
59 Certifying Agencies. The board may also administer a written,
60 oral, or practical examination.

61 (4) EXECUTIVE DIRECTOR. The Secretary of State, or his
62 or her designee.

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

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

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

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

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

81 b. The term includes effleurage, petrissage,
82 tapotement, compression, vibration, stretching, heliotherapy,
83 superficial hot and cold applications, topical applications,
84 or other therapy that involves movement either by hand,



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85 forearm, elbow, or foot, for the purpose of therapeutic
86 massage, and any massage, movement therapy, massage
87 technology, myotherapy, massotherapy, oriental massage
88 techniques, structural integration, acupressure, or polarity
89 therapy.

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

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

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

107 a. If located in Alabama, approved by the board as
108 meeting the minimum established standards of training and
109 curriculum as determined by the board and otherwise provided
110 in this chapter.

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



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113 body.

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

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

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

125 §34-43A-3

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

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

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

135 (3) Practice massage therapy.

136 §34-43A-4

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

139 (1) A student who is rendering massage therapy services
140 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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169 (6) A Native American healer using traditional healing
170 practices. A Native American healer who applies to the board
171 for a massage therapist license shall comply with all
172 licensing requirements.

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

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

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

187 §34-43A-5

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



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197 functions in a timely and effective manner and to provide open
198 and immediate access to all relevant public information. The
199 board shall communicate its responsibilities and services to
200 the public as part of its consumer protection duties. The
201 board, upon the recommendation of the executive director,
202 shall develop and implement a long range plan to ensure
203 effective regulation and consumer protection.

204 (2) All rights, duties, records, property, real or
205 personal, and all other effects existing in the name of the
206 Alabama Board of Massage Therapy, formerly created and
207 functioning pursuant to Chapter 43, or in any other name by
208 which that board has been known, shall continue in the name of
209 the Alabama Massage Therapy Licensing Board under the
210 jurisdiction of the office of the Secretary of State. Any
211 reference to the former Alabama Board of Massage Therapy, or
212 any other name by which that board has been known, in any
213 existing law, contract, or other instrument shall constitute a
214 reference to the Alabama Massage Therapy Licensing Board as
215 created in this chapter. All actions of the former Alabama
216 Board of Massage Therapy or the executive director of the
217 former board done prior to June 1, 2024, are approved,
218 ratified, and confirmed.

219 (3) The status of any individual or entity properly
220 licensed or registered by the former Alabama Board of Massage
221 Therapy on June 1, 2024, shall continue under the jurisdiction
222 of the Alabama Massage Therapy Licensing Board. Any license or
223 registration subject to renewal on or before October 1, 2024,
224 pursuant to this chapter shall be temporarily extended by



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225 three months, and may be temporarily extended for two
226 additional months if determined necessary by the board.

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

229 a. Three active licensees appointed by the Governor.

230 b. Two active licensees and one at-large member
231 appointed by the Lieutenant Governor.

232 c. Two active licensees and one at-large member
233 appointed by the Speaker of the House of Representatives.

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

252 (3) The members initially appointed to the board shall



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253 be appointed effective July 1, 2024. Each board member shall
254 be selected upon personal merit and qualifications, not per
255 membership or affiliation with an association. Each board
256 member shall be a citizen of the United States and a resident
257 of this state for two years immediately preceding appointment.
258 No member of the board shall serve more than two full
259 consecutive terms.

260 (c) Of the initial nine appointees to the board, three
261 members shall be appointed for terms of two years, three
262 members shall be appointed for terms of three years, and three
263 members shall be appointed for terms of four years as
264 determined by lottery. Thereafter, successors shall be
265 appointed for terms of four years, each term expiring on June
266 30.

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

273 (e) The board shall hold its first meeting on or before
274 August 1, 2024. At the initial meeting, and annually
275 thereafter in the month of October, the board shall elect a
276 chair and a vice chair from its membership. The board shall
277 hold quarterly meetings for the purpose of reviewing license
278 applications. The board may hold additional meetings at the
279 discretion of the chair and four members of the board. A
280 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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337 (4) Maintain a complete record of all massage
338 therapists and annually prepare a roster of the names and
339 addresses of those licensees. An electronic copy of the roster
340 shall be provided to any individual, upon request and the
341 payment of a fee established by the board in an amount
342 sufficient to cover the costs of production and distribution.

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

345 (6) Adopt and revise rules as necessary to implement
346 this chapter pursuant to the Administrative Procedure Act. All
347 administrative rules of the former Alabama Board of Massage
348 Therapy existing on June 1, 2024, which reference Chapter 43,
349 shall remain in effect as rules of the Alabama Massage Therapy
350 Licensing Board until amended or repealed by that board.

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

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

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

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

363 (1) Accept or deny the application of any individual
364 applying for a license as a massage therapist or massage



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365 therapy establishment license upon an affirmative vote of a
366 majority of the board.

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

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

373 (4) Adopt a code of ethics.

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

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

378 §34-43A-7

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

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

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

391 (d) A massage therapist or massage therapy
392 establishment licensee may not participate in the publication



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

399 §34-43A-8

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

405 (1)a. Completed a minimum of 650 hours of instruction
406 at a massage therapy school consisting of all of the
407 following:

408 1. One hundred hours of anatomy and physiology,
409 including 35 hours of myology, 15 hours of osteology, 10 hours
410 of circulatory system, and 10 hours of nervous system, with
411 the remaining 30 hours addressing other body systems, as
412 determined by the massage therapy school.

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

417 3. Fifty hours of business, hydrotherapy, first aid,
418 cardiopulmonary resuscitation, professional ethics, and state
419 massage therapy law.

420 4. Two hundred fifty hours of electives as determined



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421 by the massage therapy school.

422 b. The board, by rule, may increase the minimum number
423 of hours of instruction required for a license, not to exceed
424 the number of hours recommended by the National Certification
425 Board for Therapeutic Massage and Bodywork, or a successor
426 organization approved by the board.

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

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

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

439 (4) Paid all applicable fees.

440 (b) Notwithstanding the requirements listed in
441 subdivisions (1) and (2) of subsection (a), the board may
442 license an applicant who is licensed or registered to practice
443 massage therapy in another state if the standards of practice
444 or licensing of that state, at the time the applicant was
445 originally licensed or registered, were equal to or stricter
446 than the requirements imposed by this chapter. Before the
447 issuance of an initial license or renewal pursuant to this
448 subsection, an applicant may be subject to a hearing before



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

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

465 §34-43A-9

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

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

471 (c) A massage therapy establishment shall contract with
472 or employ only licensed massage therapists to perform massage
473 therapy. Every massage therapist associated with or working at
474 a massage therapy establishment shall be registered with the
475 board and one of the licensed massage therapists shall be
476 designated as the licensee who ensures that the massage



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477 therapy establishment complies with state law and all
478 applicable administrative rules.

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

481 (e) If the holder of a massage therapy establishment
482 license moves the location of the massage therapy
483 establishment without changing either the name or ownership of
484 that massage therapy establishment, the board shall waive the
485 new establishment license fee upon the receipt of appropriate
486 documentation from the licensee. The documentation required by
487 the board for the waiver shall be established by rule of the
488 board. This subsection shall not change the expiration date of
489 a massage therapy establishment license.

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

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

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

503 (h) If the physical location of a massage therapy
504 establishment is shut down by the board or by local, state, or



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

511 §34-43A-10

512 (a) An application for initial licensing or renewal of
513 a license shall be submitted on forms provided by the board
514 and accompanied by the applicable fee, as provided in Section
515 34-43A-12, and a recent two-by-two inch photograph showing a
516 frontal view of the head and shoulders of the applicant, taken
517 no more than six months before application. All documents
518 shall be submitted in English.

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

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

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



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

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

538 §34-43A-11

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

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

546 (1) Submit evidence of satisfactory completion of the
547 continuing education requirements pursuant to Section
548 34-43A-19.

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

554 (c) Licenses are valid for two years from the date of
555 issuance. An individual whose license has expired and who has
556 ceased to practice massage therapy for a period of not longer
557 than five years may have his or her license reinstated upon
558 payment of a renewal fee, payment of a reactivation fee,
559 payment of a late fee, and the submission of a renewal
560 application and evidence satisfactory to the board that the



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

565 §34-43A-12

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

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

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

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

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

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

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

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

586 (8) Ten dollars (\$10) for a duplicate license
587 certificate or a name change on a license certificate. The
588 board may issue a duplicate certificate for each massage



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589 therapy establishment on file with the board where the massage
590 therapist practices massage therapy. The board may issue
591 additional duplicate certificates only after receiving a sworn
592 letter from the massage therapist that an original certificate
593 was lost, stolen, or destroyed. The board shall maintain a
594 record of each duplicate certificate issued on a preprinted
595 sequentially numbered form, and the preprinted sequential
596 number of the original certificate shall be noted on the
597 duplicate certificate.

598 (b) Necessary administrative fees may be charged by the
599 board including, but not limited to, reasonable costs for
600 copying, labels, and lists, and the actual costs for
601 completing a criminal history background check. Examination
602 and license fees may be adjusted by rule of the board within
603 the monetary limits established by this chapter.

604 (c) Commencing on June 1, 2024, the name of the
605 separate special revenue trust fund in the State Treasury
606 known as the Alabama Board of Massage Therapy Fund shall be
607 renamed and then known as the Alabama Massage Therapy
608 Licensing Board Fund. All receipts collected by the board
609 under this chapter shall be deposited in this fund and used
610 only to carry out this chapter. Receipts shall be disbursed
611 only by warrant of the Comptroller, upon itemized vouchers
612 approved by the executive director, or his or her designee. No
613 funds shall be withdrawn except as budgeted and allotted
614 according to Sections 41-4-80 to 41-4-96, inclusive, 41-19-1,
615 and 41-19-12, and only in amounts as stipulated in the general
616 appropriations bill or other appropriations bills.



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617 §34-43A-13

618 (a) Any individual may file with the board a written
619 complaint regarding an allegation of impropriety by a massage
620 therapist, massage therapy establishment, or other individual.
621 Complaints may be anonymous and shall be made in the manner
622 prescribed by the board. Complaints received by the board
623 shall be referred to a standing investigative committee
624 consisting of a board member, the executive director, the
625 board attorney, and the board investigator. If no probable
626 cause is found, the investigative committee may dismiss the
627 charges and provide a statement, in writing, to the massage
628 therapist, massage therapy establishment, or other individual
629 of the reasons for that decision. The statement may also
630 include the name of the complainant, upon request of the
631 massage therapist, massage therapy establishment, or other
632 individual to whom the written statement is provided.

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

639 (1) The license was obtained by means of fraud,
640 misrepresentation, fraudulent transcripts, transcripts from a
641 non-approved school, invalidated examination scores, or
642 concealment of material facts, including making a false
643 statement on an application or any other document required by
644 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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673 (12) The applicant or licensee was convicted of
674 impersonating a massage therapist in another jurisdiction.

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

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

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

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

691 (e) In addition to an administrative fine of not more
692 than ten thousand dollars (\$10,000), according to a
693 disciplinary infraction fine schedule adopted by rule of the
694 board, the license of any individual who has been convicted
695 of, or has entered a plea of nolo contendere to, a crime or
696 offense involving prostitution or any other type of sexual
697 offense shall be permanently revoked by the board following a
698 hearing conducted pursuant to the Administrative Procedure
699 Act.

700 (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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729 therapist, physical therapist, chiropractor, or athletic
730 trainer, or a license for a massage therapy establishment,
731 shall not use the words massage or bodywork on any sign or
732 other form of advertising describing services performed by the
733 individual or within the establishment. Any advertisement by a
734 massage therapist or massage therapy establishment shall
735 contain the license number of the massage therapist or massage
736 therapy establishment.

737 §34-43A-15

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

740 §34-43A-16

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

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

749 §34-43A-17

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

755 (b) This section shall not affect:

756 (1) Local regulations relating to zoning requirements



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

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

761 (c) A county, or a municipality within its
762 jurisdiction, may regulate individuals licensed pursuant to
763 this chapter. Regulation shall be consistent with this chapter
764 and shall not supersede this chapter. This section shall not
765 be construed to prohibit a county or municipality from
766 regulating individuals not licensed pursuant to this chapter.

767 §34-43A-18

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

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

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

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

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

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



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785 state shall be licensed by the board as a massage therapist
786 and registered as a massage therapy instructor. Instructors
787 who are not teaching massage therapy do not need to be
788 registered. An adjunct massage therapy instructor shall be
789 dually licensed in the state where he or she resides or be
790 nationally certified, or both.

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

793 (1) Be currently licensed as a massage therapist in
794 this state.

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

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

801 §34-43A-19

802 (a) The board is subject to the Alabama Sunset Law of
803 1981, and is classified as an enumerated agency pursuant to
804 Section 41-20-3. The board shall automatically terminate on
805 October 1, 2026, and every four years thereafter, unless
806 continued pursuant to the Alabama Sunset Law.

807 (b) The board shall adopt a program of continuing
808 education for licensees which shall be a requisite for the
809 renewal of licenses issued pursuant to this chapter and shall
810 not exceed the requirements of a board-approved nationally
811 recognized board certification organization such as the
812 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