

House Bill 242

By: Representatives Hawkins of the 27th, Mathiak of the 73rd, Bennett of the 94th, Powell of the 32nd, and Gardner of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for the regulation of massage therapy educational programs; to
3 provide for legislative intent; to provide for definitions; to clarify requirements for massage
4 therapy licenses; to provide for violations; to provide for conditions relating to regulation by
5 counties, municipalities, or other local jurisdictions relating to massage therapy; to require
6 reporting of violations of Chapter 24A; to provide for related matters; to provide for an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
11 is amended by revising Chapter 24A, relating to massage therapy practice, as follows:

12 "CHAPTER 24A

13 ARTICLE 1

14 43-24A-1.

15 This chapter shall be known and may be cited as the 'Georgia Massage Therapy Practice
16 Act.'

17 43-24A-2.

18 The General Assembly acknowledges that the practice of massage therapy ~~affects~~ is a
19 therapeutic health care service delivered by health care professionals that affects the public
20 health, safety, and welfare of Georgians. Massage therapists must have a knowledge of
21 anatomy and physiology and an understanding of the relationship between the structure and
22 function of the tissue being treated and the total function of the body. Massage is
23 therapeutic, and regulations are necessary to protect the public from unqualified

24 practitioners. It is in the interest of the public to set standards of qualifications, education,
 25 training, and experience for those who seek to practice massage therapy; to promote high
 26 standards of professional performance for those licensed to practice massage therapy; and
 27 to protect the public from unprofessional conduct by persons and entities licensed to
 28 practice or teach massage therapy.

29 43-24A-3.

30 As used in this chapter, the term:

31 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any
 32 card, sign, or other device or causing or permitting any sign or marking on or in any
 33 building or structure, or in any newspaper, magazine, or directory, or announcement on
 34 radio, or announcement or display on television, computer network, or electronic or
 35 telephonic medium.

36 (2) 'Applicant' means any person seeking a license or renewal under this chapter.

37 (3) 'Board' means the Georgia Board of Massage Therapy established by this chapter.

38 (4) 'Board recognized massage therapy educational program' means an educational
 39 program located within or outside the State of Georgia that receives compensation for
 40 training two or more persons in massage therapy or its modalities, that has submitted an
 41 application and fee, and which meets the standards for training and curriculum as set out
 42 by the board in its rules, including, but not limited to, standards for training and
 43 curriculum which are consistent with:

44 (A) The the Nonpublic Postsecondary Education Commission as provided in Code
 45 Section 20-3-250.4;

46 (B) A postsecondary institution of the Technical College System of Georgia that is
 47 accredited by the Commission on Colleges of the Southern Association of Colleges and
 48 Schools; or

49 (C) A postsecondary institution that is accredited by an accrediting agency recognized
 50 by the United States Department of Education and that is authorized or approved by a
 51 professional licensing board, department, or agency in another state, jurisdiction, or
 52 territory whose standards have been determined by the board to be equivalent to the
 53 Nonpublic Postsecondary Education Commission.

54 ~~(4.1)~~(5) 'Entity' means the owner or operator of a business where massage therapy for
 55 compensation is performed.

56 ~~(5)~~(6) 'License' means a valid and current certificate of registration issued by the board
 57 pursuant to this chapter to practice massage therapy.

58 ~~(6)~~(7) 'Licensee' means any person holding a license.

59 (8) 'Licensure identification card' means the photographic identification card issued by
 60 the board to a licensed massage therapist specifying his or her licensure as a massage
 61 therapist.

62 ~~(7)~~(9) 'Massage therapist' means a person licensed under this chapter as a massage
 63 therapist who administers or teaches massage or massage therapy for compensation.

64 ~~(8)~~(10) 'Massage therapy' or 'massage' means the application of a system of structured
 65 touch, pressure, movement, and holding to the soft tissue of the body in which the
 66 primary intent is to enhance or restore health and well-being. ~~The~~ Such term includes
 67 complementary methods, including without limitation cupping therapy, taping
 68 techniques, the external application of water, superficial heat, superficial cold, lubricants,
 69 salt scrubs, or other topical preparations and the use of commercially available
 70 electromechanical devices which do not require the use of transcutaneous electrodes and
 71 which mimic or enhance the actions possible by the hands; the term also includes
 72 determining whether massage therapy is appropriate or contraindicated, or whether
 73 referral to another health care provider is appropriate. ~~Massage therapy~~ Such term shall
 74 not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal
 75 modalities.

76 (11) 'Massage therapy business' means the physical location where the practice of
 77 massage therapy is performed by a licensed massage therapist.

78 ~~(9)~~(12) 'Person' means a natural person only.

79 ~~(10)~~(13) 'Provisionally permitted massage therapist' means a person issued a provisional
 80 permit under this chapter.

81 43-24A-4.

82 (a) There is created the Georgia Board of Massage Therapy which shall consist of five
 83 members. The board shall be assigned to the ~~Secretary of State's office~~ Office of the
 84 Secretary of State for administrative purposes and shall be under the jurisdiction of the
 85 division director and shall operate in accordance with and pursuant to the provisions of
 86 Chapter 1 of this title, as applicable.

87 (b) The Governor shall appoint, subject to confirmation by the Senate, all members of the
 88 board for initial terms of office beginning July 1, 2005. The Governor shall appoint two
 89 initial members of the board to serve for terms of two years and three initial members of
 90 the board, including the public member, to serve for terms of four years. After the initial
 91 terms specified in this subsection, members of the board shall take office on the first day
 92 of July immediately following the expired term of that office and shall serve for a term of
 93 four years and until their successors are appointed and qualified. Any person appointed to
 94 the board when the Senate is not in session may serve on the board without Senate

95 confirmation until the Senate acts on that appointment. No member shall serve on the
 96 board for more than two full consecutive terms. Any vacancy due to death, resignation,
 97 removal, or otherwise shall be filled for the remainder of the unexpired term in the same
 98 manner as regular appointments.

99 (c) All members of the board shall be reimbursed as provided for in subsection (f) of Code
 100 Section 43-1-2.

101 (d) An appointee to the board shall qualify by taking an oath of office within 15 days from
 102 the date of his or her appointment. On presentation of the oath, the Secretary of State shall
 103 issue a commission to each appointee as evidence of his or her authority to act as a member
 104 of the board.

105 43-24A-5.

106 (a)(1) There shall be four professional members of the board who shall:

107 (A) Be citizens of the United States and residents of this state for at least three years
 108 prior to the date of appointment;

109 (B) Have been engaged in massage therapy practice for compensation for at least five
 110 years immediately preceding their appointment; and

111 (C) ~~Be eligible for licensure under this chapter. Effective July 1, 2006, and thereafter,~~
 112 ~~all professional members of the board shall be licensed under this chapter.~~

113 (2) No more than one professional member of the board may be an owner of or affiliated
 114 with any massage therapy school.

115 (b) There shall be one consumer member of the board who shall be appointed by the
 116 Governor from the public at large, shall be a citizen of the United States and resident of this
 117 state, and shall be a person to whom neither this state nor any other state or jurisdiction or
 118 organization has ever issued a certificate, registration, license, or permit to engage in the
 119 practice of massage therapy nor be an owner of or affiliated with any massage therapy
 120 school or massage therapy business.

121 (c) The Governor, after notice and opportunity for hearing, may remove any member of
 122 the board for incompetence, neglect of duty, unprofessional conduct, conviction of a
 123 felony, failure to meet the qualifications of this chapter, or committing any act prohibited
 124 by this chapter.

125 43-24A-6.

126 The board shall meet at least once each year at a time fixed by the board. At its annual
 127 meeting, the board shall elect from its members a chairperson, vice chairperson, and any
 128 other officers as deemed necessary who shall hold office for a term of one year.
 129 Additionally, the board may appoint such committees as it considers necessary to fulfill its

130 duties. In addition to its annual meeting, the board may hold additional meetings at the call
 131 of the chairperson or at the request of any two members of the board or as approved by the
 132 division director.

133 43-24A-7.

134 (a)(1) On and after July 1, 2019, the Georgia Board of Massage Therapy shall regulate
 135 the practice of massage therapy in this state. The board shall promulgate rules and
 136 regulations governing the practice of massage therapy and massage therapy educational
 137 programs pursuant to this chapter. Such rules and regulations shall be adopted no later
 138 than July 1, 2020.

139 (2) Any person who holds a license as a massage therapist issued under this chapter as
 140 its provisions existed on June 30, 2019, shall not be required to undergo recertification
 141 under this chapter but shall otherwise be subject to all applicable provisions of this
 142 chapter effective on and after July 1, 2019.

143 (b) The board shall have the power to:

144 (1) Examine and determine the qualifications and fitness of applicants for licenses to
 145 practice massage therapy in this state;

146 (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage
 147 therapy in this state or otherwise discipline licensed massage therapists;

148 (3) Conduct investigations for the purpose of discovering violations of this chapter or
 149 grounds for disciplining persons or entities acting in violation of this chapter;

150 (4) Upon reasonable notice, order on-site inspections of the facility, equipment, policies,
 151 and practices of a massage therapy business by appropriate inspectors in the Office of the
 152 Secretary of State for the purpose of determining compliance with this chapter;

153 ~~(4)~~(5) Hold hearings on all matters properly brought before the board and, in conjunction
 154 therewith, to administer oaths, receive evidence, make the necessary determinations, and
 155 enter orders consistent with the findings. The board may designate one or more of its
 156 members as its hearing officer;

157 ~~(5)~~(6) Adopt, revise, and enforce rules concerning advertising by licensees including, but
 158 not limited to, rules to prohibit false, misleading, or deceptive practices;

159 (7) Periodically evaluate board recognized massage therapy educational programs and
 160 license such programs that meet the board's requirements;

161 (8) Develop and enforce standards for continuing education courses required of licensed
 162 massage therapists which may include courses in massage therapy or any of the
 163 modalities described in paragraphs (5) through (8) of subsection (a) of Code Section
 164 43-24A-19;

- 165 (9) Develop and enforce reasonable and uniform standards for massage therapy
 166 educational programs and massage therapy practice;
- 167 (10) Deny or withdraw recognition of noncompliant massage therapy educational
 168 programs that do not meet standards established pursuant to this chapter;
- 169 (11) Appoint standing or ad hoc committees as necessary to inform and make
 170 recommendations to the board about issues and concerns of the massage therapy
 171 profession and to facilitate communication amongst the board, licensees under this
 172 chapter, and the community;
- 173 (12) Collect and publish data regarding existing massage therapy resources in Georgia
 174 without violation of any state or federal privacy laws and coordinate planning for board
 175 recognized massage therapy educational programs and practice;
- 176 ~~(6)~~(13) Adopt an official seal; and
- 177 ~~(7)~~(14) Bring proceedings to the courts for the enforcement of this chapter or any rules
 178 and regulations promulgated pursuant to this chapter.
- 179 ~~(b)~~(c) In addition to the enumerated powers in subsection ~~(a)~~(b) of this Code section, the
 180 board has the authority to conduct its business pursuant to the provisions of Code
 181 Section 43-1-19 which is incorporated herein and made a part of this chapter by specific
 182 reference.
- 183 43-24A-8.
- 184 (a) No person may practice massage therapy in this state who is not a licensed massage
 185 therapist or the holder of a valid provisional permit issued by the division director pursuant
 186 to this chapter.
- 187 (b) Any applicant for a license as a massage therapist must submit a completed application
 188 upon a form and in such manner as the board prescribes, accompanied by applicable fees,
 189 and evidence satisfactory to the board that:
- 190 (1) The applicant is at least 18 years of age;
- 191 (2) The applicant has a high school diploma or its recognized equivalent;
- 192 (3) The applicant is a citizen of the United States or a permanent resident of the United
 193 States;
- 194 (4) The applicant is of good moral character. For purposes of this paragraph, 'good
 195 moral character' means professional integrity and a lack of any conviction for acts
 196 involving moral turpitude where the underlying conduct relates to the applicant's fitness
 197 to practice massage therapy;
- 198 (5) The applicant has satisfactory results from a fingerprint record check report
 199 conducted by the Georgia Crime Information Center and the Federal Bureau of
 200 Investigation, as determined by the board. Application for a license under this Code

201 section shall constitute express consent and authorization for the board or its
 202 representative to perform a criminal background check. Each applicant who submits an
 203 application to the board for licensure by examination agrees to provide the board with any
 204 and all information necessary to run a criminal background check, including, but not
 205 limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees
 206 associated with the performance of such background check;

207 (6) The applicant has completed successfully a board recognized massage therapy
 208 educational program consisting of a minimum of 500 hours of course and clinical work;
 209 and

210 (7) The applicant has passed satisfactorily the National Certification Examination for
 211 Therapeutic Massage and Bodywork, the Massage and Bodywork Licensing Exam
 212 administered by the Federation of State Massage Therapy Boards, an equivalent test
 213 approved by the board, or an examination administered by another state, territory, or
 214 jurisdiction whose license requirements meet or exceed those of this state; and

215 (8) The applicant has and agrees to maintain continuously during the term of licensure
 216 liability insurance coverage for bodily injury and property damage in coverages and
 217 amounts not less than \$1 million per occurrence or \$3 million annually, as determined by
 218 the board.

219 43-24A-9.

220 (a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 221 upon proper application, be issued for a six-month period to an applicant who meets the
 222 following criteria:

223 (1) Holds a valid license as a massage therapist in another state;

224 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 225 defined in Code Section 50-36-2;

226 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 227 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and

228 (4) Has not been convicted of a felony in the courts of this state, any other state, territory,
 229 or country, or in the courts of the United States, including, but not limited to, a plea of
 230 nolo contendere entered to such charge or the affording of first offender treatment to any
 231 such charge in the same manner as provided in paragraph (4) of subsection (a) of Code
 232 Section 43-1-19.

233 (b) A provisional permit shall require the applicant to work under the supervision of a
 234 licensed massage therapist. If an applicant has met the requirements of subsection (a) of
 235 this Code section and submits the applicable license fee, the applicant shall be granted a

236 provisional permit to practice massage therapy in this state. Upon receipt of such
237 application and fee, a provisional permit shall be administratively issued.

238 (c) A provisional permit may be voided if the board determines that the person holding
239 such permit no longer meets one or more of the criteria set forth in subsection (a) of this
240 Code section.

241 (d) A provisional permit issued pursuant to subsection (a) of this Code section shall have
242 the same force and effect as a permanent license until the time of its expiration.

243 (e) A provisional permit issued pursuant to subsection (a) of this Code section shall expire
244 on the same date as a license issued under this chapter to a holder of a provisional permit
245 who has passed the examination pursuant to Code Section 43-24A-8.

246 43-24A-10.

247 The board may require that all applications be made under oath.

248 43-24A-11.

249 (a) Examinations shall be administered to qualified applicants for massage therapy
250 licensure at least twice each calendar year.

251 (b) Applicants may obtain their examination scores in accordance with such rules and
252 regulations as the board may establish.

253 43-24A-12.

254 Reserved.

255 43-24A-13.

256 (a) Any applicant for a license by endorsement as a massage therapist must submit a
257 completed application upon a form and in such manner as the board prescribes,
258 accompanied by applicable fees, and evidence satisfactory to the board that:

259 (1) The applicant is at least 18 years of age;

260 (2) The applicant is of good moral character. For purposes of this paragraph, 'good
261 moral character' means professional integrity and a lack of any conviction for acts
262 involving moral turpitude where the underlying conduct relates to the applicant's fitness
263 to practice massage therapy;

264 (3) The applicant has satisfactory results from a fingerprint record check report
265 conducted by the Georgia Crime Information Center and the Federal Bureau of
266 Investigation, as determined by the board. Application for a license under this Code
267 section shall constitute express consent and authorization for the board or its
268 representative to perform a criminal background check. Each applicant who submits an

269 application to the board for licensure by endorsement agrees to provide the board with
 270 any and all information necessary to run a criminal background check, including, but not
 271 limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees
 272 associated with the performance of such background check; and

273 (4) The applicant is currently licensed as a massage therapist in another jurisdiction,
 274 state, or territory of the United States or foreign country which requires standards for
 275 licensure considered by the board to be equivalent to the requirements for licensure under
 276 this chapter.

277 (b) The board may establish by rule procedures for an applicant for licensure by
 278 endorsement to supplement his or her application to satisfy any standards for licensure
 279 pursuant to this chapter that are greater than those of another state, territory, or jurisdiction.

280 43-24A-14.

281 (a) The licensee shall display the license certificate or a photocopy thereof in an
 282 appropriate and public manner at each location at which he or she practices. In a mobile
 283 practice, each licensee shall also have his or her licensure identification card on his or her
 284 person or in the mobile practice facility where the massage therapy is being performed.

285 (b) All licenses shall expire biennially unless renewed. All applications for renewal of a
 286 license shall be filed with the division director prior to the expiration date, accompanied
 287 by the biennial renewal fee prescribed by the board and certifying that all current
 288 requirements of continuing education as determined by the board have been fulfilled. The
 289 board shall provide for penalty fees for late registration. The failure to renew a license by
 290 the end of an established penalty period shall have the same effect as a revocation of said
 291 license, subject to reinstatement only after application and payment of the prescribed
 292 reinstatement fee within the time period established by the division director, provided that
 293 the applicant meets such requirements as the board may establish by rule.

294 (c) A licensee shall provide evidence of current liability insurance coverage as required
 295 in Code Section 43-24A-8 upon request by the board at any time during such licensee's
 296 term of licensure.

297 ~~(e)~~(d) The licensee shall inform the board of any change of address within 30 days.

298 ~~(d)~~(e) Each person licensed under this chapter is responsible for renewing his or her
 299 license before the expiration date.

300 ~~(e)~~(f) Under procedures and conditions established by the board, a licensee may request
 301 that his or her license be declared inactive. The licensee may apply for active status at any
 302 time and upon meeting the conditions set forth by the board shall be declared active.

303 43-24A-15.

304 (a) It shall be a violation of this chapter for any person, ~~or entity, or board recognized~~
 305 massage therapy educational program to advertise:

306 (1) ~~Massage~~ ~~massage~~ therapy services or to advertise the offering of massage therapy
 307 services unless such services are provided by a person who holds a valid license under
 308 this chapter; ~~or~~

309 (2) Massage therapy services through any form of media or representation through the
 310 use of pictorial representations unless the persons depicted in such representations are
 311 attired and posed in a manner so as to avoid appealing to the prurient interest.

312 (b) It shall be a violation of this chapter for any person to advertise:

313 (1) As a massage therapist unless the person holds a valid license under this chapter in
 314 the classification so advertised; or

315 (2) Massage therapy services combined with escort or dating services or adult
 316 entertainment.

317 (c) It shall be a violation of this chapter for a person or entity, or the employees, agents,
 318 or representatives of such person or entity, to practice massage therapy or to use in
 319 connection with such person's or entity's name or business activity the terms 'massage,'
 320 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,' 'L.M.T.,'
 321 or any other words, letters, abbreviations, or insignia indicating or implying directly or
 322 indirectly that massage therapy is provided or supplied unless such massage therapy is
 323 provided by a massage therapist licensed and practicing in accordance with this chapter.

324 (d) It shall be a violation of this chapter for any entity to:

325 (1) Advertise the offering of massage therapy services combined with escort or dating
 326 services or adult entertainment; or

327 (2) Employ unlicensed massage therapists to perform massage therapy.

328 (e) It shall be a violation of this chapter for any person to practice massage therapy without
 329 holding a current or provisional license as a massage therapist in accordance with
 330 subsection (a) of Code Section 43-24A-8.

331 (f) It shall be a violation of this chapter for any person or entity, or the employees, agents,
 332 or representatives of such person or entity, to render or offer massage therapy services for
 333 compensation unless such massage therapy is provided by a licensed massage therapist.

334 43-24A-16.

335 The practice of massage therapy is declared to be an activity ~~affecting the public interest~~
 336 ~~and involving~~ that affects the public health, safety, and welfare of the public Georgians.

337 Such practice by a person who is not licensed to practice massage therapy in this state is
 338 declared to be a public nuisance, harmful to the public health, safety, and welfare. Any

339 citizen of this state, the board, or the appropriate prosecuting attorney of a jurisdiction
 340 where such practice is carried on by such unlicensed person may, on behalf of the public,
 341 bring an action to restrain and enjoin such unlicensed practice in the superior court of the
 342 county where such unlicensed person resides or works. It shall not be necessary in order
 343 to obtain an injunction under this Code section to allege or prove that there is no adequate
 344 remedy at law or to allege or prove any special injury.

345 43-24A-17.

346 (a) The board may take any one or more of the following actions against a person, ~~or~~
 347 entity, or board recognized massage therapy educational program found by the board to
 348 have committed a violation of this chapter:

- 349 (1) Reprimand or place the licensee on probation;
- 350 (2) Revoke or suspend the license or deny the issuance or renewal of a license;
- 351 (3) Impose an administrative fine not to exceed \$500.00 for each violation; and
- 352 (4) Assess costs against the violator for expenses relating to the investigation and
 353 administrative action.

354 (b) The board may assess collection costs and interest for the collection of fines imposed
 355 under this chapter against any person, ~~or~~ entity, or board recognized massage therapy
 356 educational program that fails to pay a fine as directed by the board.

357 43-24A-18.

358 Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia
 359 Administrative Procedure Act.'

360 43-24A-19.

361 (a) Nothing in this chapter shall be construed to affect, restrict, or prevent the practice,
 362 services, or activities of:

- 363 (1) A person licensed, registered, or certified under any other chapter or article under
 364 Title 43 while engaged in the professional or trade practices properly conducted under
 365 authority of such other licensing laws, provided that such person shall not use the title of
 366 massage therapist;
- 367 (2) A person pursuing a course of study leading to a degree or certificate as a massage
 368 therapist in ~~an~~ a board recognized massage therapy educational program ~~recognized by~~
 369 ~~the board~~, if such person is designated by title indicating student status and is fulfilling
 370 uncompensated work experiences required for the attainment of the degree or certificate;
- 371 (3) A nonresident person rendering massage therapy up to 60 days during a 12 month
 372 period for treatment of a temporary sojourner only, provided that such nonresident

373 massage therapist holds a license, registration, or certification from another state,
 374 jurisdiction, or country if the requirements as determined by the board for licensure,
 375 registration, or certification are substantially equal to the requirements contained in this
 376 chapter or provided that such nonresident massage therapist is currently nationally
 377 certified in therapeutic massage and bodywork;

378 (4) A person duly licensed, registered, or certified in another jurisdiction, state, territory,
 379 or a foreign country when incidentally in this state to provide service as part of an
 380 emergency response team working in conjunction with disaster relief officials or as part
 381 of a charity event with which he or she comes into the state;

382 (5) A person who restricts his or her practice to the manipulation of the soft tissue of the
 383 human body to hands, feet, or ears who does not have the client disrobe and does not hold
 384 himself or herself out as a massage therapist;

385 (6) A person who uses touch, words, and directed movement to deepen awareness of
 386 existing patterns of movement in the body as well as to suggest new possibilities of
 387 movement while engaged within the scope of practice of a profession with established
 388 standards and ethics, provided that his or her services are not designated or implied to be
 389 massage or massage therapy;

390 (7) A person who uses touch and movement education to effect change in the structure
 391 of the body while engaged in the practice of structural integration, provided that he or she
 392 is a member of, or whose training would qualify for membership in, the International
 393 Association of Structural Integrators and provided that his or her services are not
 394 designated or implied to be massage or massage therapy;

395 (8) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi
 396 meridians, also known as channels of energy, of the human body while engaged within
 397 the scope of practice of a profession with established standards and ethics, provided that
 398 his or her services are not designated or implied to be massage or massage therapy; ~~or~~

399 (9) A person who was engaged in massage therapy practice prior to July 1, 2005;
 400 provided, however, that the prohibition of subsection (c) of Code Section 43-24A-15 shall
 401 apply to such a person on and after July 1, 2007; or

402 (10) A person licensed under other chapters of this title providing cupping therapy or
 403 taping techniques that are authorized within the scope of practice of such person.

404 (b) Nothing in this chapter shall prohibit a licensed massage therapist from practicing any
 405 of the modalities described in paragraphs (5) through (8) of subsection (a) of this Code
 406 section.

407 43-24A-20.

408 (a) The board shall establish continuing education requirements not to exceed 25 hours per
 409 biennium in massage therapy, its complementary methods, or any of the modalities
 410 described in paragraphs (5) through (8) of subsection (a) of Code Section 43-24A-19. The
 411 board shall by rule establish criteria for the approval of continuing education programs or
 412 courses. The programs or courses approved by the board may include correspondence
 413 courses that meet the criteria requirements for continuing education programs or courses.
 414 (b) Continuing education requirements or credits used for license renewal shall be
 415 approved by the board.

416 43-24A-21.

417 As cumulative to any other remedy or criminal prosecution, the board may file a
 418 proceeding in the name of the state seeking issuance of a restraining order, injunction, or
 419 writ of mandamus against any person, entity, or board recognized massage therapy
 420 educational program that ~~who~~ is or has been violating any of the provisions of this chapter
 421 or the lawful rules or orders of the board.

422 43-24A-22.

423 (a) This chapter shall not be construed to prohibit a county or municipality from enacting
 424 any regulation of persons not licensed pursuant to this chapter. Any place of business
 425 where massage therapy for compensation is performed ~~shall~~ may also be subject to
 426 regulation by local governing authorities in accordance with this chapter.
 427 (b) No provision of any ordinance enacted by a ~~municipality~~, county, municipality, or
 428 other local jurisdiction that relates to the practice of massage therapy or requires licensure
 429 an individual professional license by such county, municipality, or local jurisdiction of a
 430 massage therapist may be enforced against a person who is issued a license by the board
 431 under this chapter.

432 43-24A-23.

433 Notwithstanding any provision of law to the contrary, the act of a duly licensed massage
 434 therapist in performing a massage shall be deemed to be the act of a health care
 435 professional and shall not be subject to the collection of any form of state or local taxation
 436 regulations or fees not also imposed on other ~~professional~~ licensed health care activities
 437 professionals.

438 43-24A-24.

439 (a) Any person, entity, or board recognized massage therapy educational program that who
 440 acts in violation of Code Section 43-24A-15, upon conviction thereof, shall be punished
 441 as provided in this Code section.

442 (b) Each act of unlawful practice under this Code section shall constitute a distinct and
 443 separate offense.

444 (c) Upon being convicted a first time under this Code section, such person, or entity, or
 445 board recognized massage therapy educational program shall be guilty of and shall be
 446 punished as for a misdemeanor for each offense which is punishable by a fine of not less
 447 than \$500.00 nor more than \$5,000.00. Upon being convicted a second time under this
 448 Code section, such person, or entity, or board recognized massage therapy educational
 449 program shall be guilty of and shall be punished as for a misdemeanor of a high and
 450 aggravated nature punishable by a fine of not less than \$5,000.00 nor more than
 451 \$10,000.00, or imprisonment for not less than six months nor more than one year, at the
 452 discretion of the court. Upon being convicted a third or subsequent time under this Code
 453 section, such person, or entity, or board recognized massage therapy educational program
 454 shall be guilty of a felony and shall be punished by a fine of not more than \$25,000.00 for
 455 each offense, imprisonment for not less than one nor more than five years, or both, and
 456 shall be precluded from owning, operating, or working for or with an entity that offers
 457 massage therapy.

458 ARTICLE 2

459 43-24A-30.

460 (a) A county, municipality, or other local jurisdiction may by ordinance or resolution
 461 license or regulate massage therapy businesses. Any ordinance or resolution adopted
 462 pursuant to this subsection may include, but is not limited to, at least the following
 463 requirements on such businesses:

464 (1) Current liability insurance coverage for bodily injury and property damage for the
 465 massage therapy business;

466 (2) Compliance with state and local fire and safety requirements;

467 (3) Provision for extermination of vermin, insects, termites, and rodents in any property
 468 or location used by the massage therapy business;

469 (4) Maintenance of equipment in a safe and sanitary condition;

470 (5) Adequate toilet and lavatory facilities with running water, toilet tissue, soap dispenser
 471 with soap or other hand-cleansing materials, sanitary towels or other hand drying devices,
 472 waste receptacles, and adequate lighting and ventilation sufficient to remove

473 objectionable odors on the premises of the business or entity or within reasonable
 474 proximity to such business or entity when it is located in a space or facilities also used
 475 by other businesses;

476 (6) Adequate and sanitary shower facilities if the massage therapy business maintains a
 477 whirlpool bath, sauna, hot tub, spa, steam cabinet, or steam room, including soap and
 478 sanitary cloth towels and adequate lighting and ventilation;

479 (7) Prequalification processes, state licensure checks, interviews, or other procedures
 480 prior to approval of application for a business license for a person or entity proposing to
 481 offer massage therapy services or for a massage therapy business; and

482 (8) Requirement that a licensed massage therapist is present on the premises of a
 483 massage therapy business at any time when massage therapy is being performed for a
 484 client of the massage therapy business.

485 (b) A county, municipality, or other local jurisdiction may limit or prohibit a massage
 486 therapy business from using labels or names including the words 'spa establishment,'
 487 'massage parlor,' 'personal service,' or 'adult entertainment.'

488 43-24A-31.

489 (a) A county, municipality, or other local jurisdiction that licenses or regulates massage
 490 therapy businesses may not adopt any ordinance or regulation that includes any of the
 491 following:

492 (1) Conditions or requirements required as of July 1, 2019, for licensure as a massage
 493 therapist under this chapter, including, but not limited to, criminal background checks,
 494 education, and training; provided, however, that a county, municipality, or other local
 495 jurisdiction may require a criminal background check of an owner of a massage therapy
 496 business who is not a licensed massage therapist;

497 (2) Limitations on the location of a massage therapy business relating to its proximity
 498 to other massage therapy businesses that are not imposed on the businesses of other
 499 health care professionals or which directly or indirectly prohibit massage therapy
 500 businesses from locating in the jurisdiction;

501 (3) Prohibition of off-premises or mobile services by a licensed massage therapist;

502 (4) Limitations on the operation of the massage therapy business from engaging licensed
 503 massage therapists as contractors of such business or lessees of the premises of the
 504 massage therapy business for the performance of massage therapy; or

505 (5) Conditions or requirements that are in any manner inconsistent with the federal
 506 Health Insurance Portability and Accountability Act of 1996.

507 (b) A county, municipality, or other local jurisdiction shall not impose any requirements
 508 relating to massage therapy for the purpose of impeding the lawful practice of massage
 509 therapy pursuant to this chapter.

510 43-24A-32.

511 Nothing in this article shall prohibit a county, municipality, or other local jurisdiction from:

512 (1) Licensing or regulating other businesses that are not massage therapy businesses;

513 (2) Enacting advertising restrictions on massage therapy businesses to protect the public;

514 provided, however, that this shall not include any restrictions on the content of
 515 advertising beyond what is included in Code Section 43-24A-15;

516 (3) Inspecting massage therapy businesses; provided, however, that this shall not be
 517 construed to authorize the review of client records protected by the federal Health
 518 Insurance Portability and Accountability Act of 1996; or

519 (4) Prohibiting and prosecuting illicit, immoral, prurient, or illegal activities or sexual
 520 activity in the operation or on the premises of a massage therapy business.

521 43-24A-33.

522 (a) The appropriate prosecuting attorney may cause appropriate proceedings to be
 523 commenced in order to enforce the provisions of this article.

524 (b) The board, in addition to the remedies set forth in this chapter, may bring an action in
 525 a court of competent jurisdiction to enjoin violations of this article. Such injunction may
 526 be issued by such court notwithstanding the existence of an adequate remedy at law.

527 ARTICLE 3

528 43-24A-40.

529 (a) A massage therapist or any other entity that employs one or more massage therapists
 530 shall report names of subject persons to the board if he or she has reasonable cause to
 531 believe that any other massage therapist has violated any of the grounds for discipline set
 532 forth in Code Section 43-24A-41.

533 (b) A massage therapist shall not be required to duplicate a report if he or she has
 534 reasonable cause to believe that such report has been made to the board.

535 (c) A health care professional shall not be required to report a massage therapist to the
 536 board under this Code section as a result of professional knowledge obtained in the course
 537 of the health care professional-patient relationship when the massage therapist is the
 538 patient.

539 43-24A-41.

540 The following incidents shall be reported to the board pursuant to Code Section 43-24A-40
541 when any person is:

542 (1) Practicing massage therapy without a valid, current license, except as otherwise
543 permitted under this chapter;

544 (2) Practicing massage therapy under cover of any diploma, license, certification, or
545 record illegally or fraudulently obtained, signed, or issued;

546 (3) Practicing massage therapy during the time his or her license is suspended, revoked,
547 surrendered, or administratively revoked for failure to renew;

548 (4) Using any words, abbreviations, figures, letters, titles, signs, cards, or devices
549 implying that such person is a licensed massage therapist unless such person is duly
550 licensed or recognized by the board to practice as such under the provisions of this
551 chapter;

552 (5) Fraudulently furnishing a license to practice massage therapy as a licensed massage
553 therapist;

554 (6) Knowingly aiding or abetting any person in violating this chapter;

555 (7) While holding a license as a massage therapist, convicted of any felony, crime
556 involving moral turpitude, or crime violating a federal or state law relating to sexual
557 offenses; and

558 (8) While holding a license as a massage therapist, currently or previously displaying an
559 inability to practice massage therapy as a licensed massage therapist with reasonable skill
560 and safety due to the use of alcohol, drugs, narcotics, or chemicals.

561 43-24A-42.

562 The board may seek an order from a court of competent jurisdiction for a report from a
563 massage therapist as required by Code Section 43-24A-40, if one is not forthcoming
564 voluntarily. The board may seek a citation for civil contempt if a court order for a report
565 is not obeyed by such massage therapist.

566 43-24A-43.

567 No massage therapist or massage therapy business that is required to report a massage
568 therapist to the board under this article who in good faith either reports or fails to report
569 shall be subject to civil or criminal liability or discipline for unprofessional conduct for
570 such action or inaction."

571 **SECTION 2.**

572 This Act shall become effective upon its approval by the Governor or upon its becoming law
573 without such approval.

574 **SECTION 3.**

575 All laws and parts of laws in conflict with this Act are repealed.