

HOUSE BILL No. 1289

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-0.5-2-30; IC 25-21.8.

Synopsis: Massage therapy. Provides that an individual must be licensed by the state board of massage therapy (board) to practice massage therapy. (Under current law, massage therapists are certified by the board but certification is not required to practice massage therapy.) Provides that massage therapy licensing requirements do not prohibit specified conduct of individuals who meet certain requirements. Amends the definition of "massage therapy" to include certain acts. Amends the definition of "massage therapist" to include an individual who offers to provide massage therapy. Removes the prohibition of a board member serving more than two consecutive terms. Requires that: (1) massage therapy instruction must be approved by the board; and (2) a massage therapy school or program must be an institution of higher learning. Provides that an individual may not use certain titles or practice massage therapy without a license. Establishes certain prohibitions and requirements for massage therapy advertisements. Provides for the transition to licensure for massage therapists who are certified on June 30, 2017. Provides that the board may not grant licensure by endorsement to an individual who has a pending disciplinary action. Provides that the massage therapist licensing law preempts local ordinances, resolutions, rules, and policies concerning massage therapists, except for zoning requirements and occupational license fees. Makes conforming changes.

Effective: July 1, 2017.

Bacon

January 10, 2017, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1289

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-0.5-2-30, AS ADDED BY P.L.3-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 30. IC 25-1-2-2.1 applies to ~~certifications~~ **licenses**
4 held by massage therapists.

5 SECTION 2. IC 25-21.8-1-1.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2017]: **Sec. 1.5. "Approved massage therapy**
8 **school" means a facility that meets minimum standards for**
9 **training and curriculum as determined by the board.**

10 SECTION 3. IC 25-21.8-1-2.4 IS ADDED TO THE INDIANA
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2017]: **Sec. 2.4. "Compensation" means a**
13 **payment or anything of value.**

14 SECTION 4. IC 25-21.8-1-4, AS ADDED BY P.L.200-2007,
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2017]: Sec. 4. "Massage therapy":

17 (1) means ~~the application of massage techniques on the human~~



1 **body; a health care service involving the external**
 2 **manipulation or pressure of soft tissue for the purposes of**
 3 **enhancing health, providing muscle relaxation, increasing**
 4 **range of motion, reducing stress, relieving pain, or improving**
 5 **circulation of the human body;**

6 (2) includes:

7 (A) the use of touch, **external** pressure, **friction, stroking,**
 8 **rocking, gliding, vibration,** percussion, kneading, movement,
 9 positioning, nonspecific stretching, stretching within the
 10 normal anatomical range of movement, and holding, with or
 11 without the use of massage devices that mimic or enhance
 12 manual measures; and

13 (B) the external application of heat, cold, water, ice, stones,
 14 lubricants, abrasives, and topical preparations that are not
 15 classified as prescription drugs; and

16 (3) does not include:

17 (A) spinal manipulation **or grade 5 mobilization;** and

18 (B) diagnosis or prescribing drugs for which a license is
 19 required.

20 SECTION 5. IC 25-21.8-1-5, AS ADDED BY P.L.200-2007,
 21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2017]: Sec. 5. "Massage therapist" means an individual who
 23 **is licensed under this article and practices or offers to provide**
 24 massage therapy.

25 SECTION 6. IC 25-21.8-1-6 IS ADDED TO THE INDIANA CODE
 26 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2017]: **Sec. 6. "Unit" has the meaning set forth in IC 36-1-2-23.**

28 SECTION 7. IC 25-21.8-2-2, AS ADDED BY P.L.200-2007,
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2017]: Sec. 2. ~~(a)~~ The board consists of five (5) members
 31 appointed by the governor as follows:

32 (1) Three (3) massage therapists, each of whom:

33 (A) is ~~certified licensed~~ **licensed** under this article; ~~and~~

34 (B) has been actively practicing massage therapy for at least
 35 three (3) of the five (5) years immediately preceding the
 36 individual's appointment; **and**

37 **(C) does not have a pending disciplinary or suspension**
 38 **proceeding against the individual.**

39 (2) Two (2) members of the general public. A board member
 40 appointed under this subdivision must not:

41 (A) be ~~certified licensed~~ **licensed** under this article;

42 (B) be the spouse of an individual who is ~~certified licensed~~ **or**



- 1 intends to be ~~certified~~ **licensed** under this article; or
 2 (C) have a direct or an indirect financial interest in the
 3 profession regulated under this article.
- 4 ~~(b) A massage therapist member of the board is not required to be~~
 5 ~~a member of a professional massage therapy association. However:~~
 6 ~~(1) not more than one (1) massage therapist member appointed to~~
 7 ~~the board may belong to the same professional massage therapy~~
 8 ~~association; and~~
 9 ~~(2) one (1) massage therapist member must not be a member of~~
 10 ~~a professional massage therapy association.~~
- 11 SECTION 8. IC 25-21.8-2-4, AS ADDED BY P.L.200-2007,
 12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2017]: Sec. 4. (a) A vacancy in the membership of the board
 14 shall be filled by an individual appointed by the governor for the
 15 unexpired term **in the same manner as the original appointment was**
 16 **made.**
- 17 (b) ~~A member may not serve more than two (2) consecutive terms~~
 18 ~~in addition to any unexpired term to which the individual was~~
 19 ~~appointed. A member may serve until a successor has been appointed~~
 20 ~~and qualified under this chapter.~~
- 21 (c) A member of the board may be removed for cause by the
 22 governor.
- 23 SECTION 9. IC 25-21.8-2-8, AS ADDED BY P.L.200-2007,
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2017]: Sec. 8. ~~A Each~~ member of the board is ~~not~~ entitled to
 26 a per diem allowance ~~or and~~ any other compensation for the
 27 performance of the member's duties **in accordance with**
 28 **IC 4-10-11-2.1.**
- 29 SECTION 10. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007,
 30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 1. (a) The board shall do the following:
 32 (1) Administer and enforce this article.
 33 (2) Adopt rules under IC 4-22-2 for the administration and
 34 enforcement of this article, **including rules to further define the**
 35 **exemptions listed under IC 25-21.8-4-5.**
 36 (3) Judge the qualifications of applicants for ~~certification~~
 37 **licensure** under this article.
 38 (4) Issue, deny, or renew ~~certifications~~ **licenses** under this article.
 39 (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline
 40 individuals who are ~~certified~~ **licensed** under this article for
 41 violations of this article.
 42 (6) Establish reasonable fees for ~~examination; examinations,~~



- 1 ~~certification license~~ applications, renewal of ~~certifications;~~
 2 **licenses**, and other services.
 3 (7) Maintain a record of all proceedings.
 4 (8) Maintain records of ~~certified licensed~~ massage therapists.
 5 (9) Adopt at least two (2) examinations that an applicant may use
 6 for ~~certification licensure~~ under this article.
 7 (b) The board may do the following:
 8 (1) Conduct administrative hearings.
 9 (2) Administer oaths in matters relating to the discharge of the
 10 official duties of the board.

11 SECTION 11. IC 25-21.8-4-1, AS ADDED BY P.L.200-2007,
 12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2017]: Sec. 1. ~~An application for a massage therapist~~
 14 **certification must be:**

- 15 (1) ~~made to the board in the form and manner provided by the~~
 16 ~~board; and~~
 17 (2) ~~accompanied by an application fee in the amount set by the~~
 18 ~~board.~~

19 **Persons engaged in massage therapy for compensation must be**
 20 **licensed by the board.**

21 SECTION 12. IC 25-21.8-4-2, AS AMENDED BY P.L.112-2014,
 22 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2017]: Sec. 2. An individual who applies for ~~certification~~
 24 **licensure** as a massage therapist must do the following:

- 25 **(1) Complete and submit the licensure application in the form**
 26 **and manner provided by the board.**
 27 (1) ~~(2)~~ Furnish evidence satisfactory to the board showing that the
 28 individual:
 29 (A) is at least eighteen (18) years of age;
 30 (B) has a high school diploma or the equivalent of a high
 31 school diploma;
 32 (C) has successfully:
 33 (i) completed a massage therapy ~~school or program at an~~
 34 **approved massage therapy school** that ~~(1)~~ requires at least
 35 five hundred (500) hours of supervised classroom and hands
 36 on instruction on massage therapy;
 37 (ii) is in good standing with a state, regional, or national
 38 agency of government charged with regulating massage
 39 therapy schools or programs; ~~and been accredited by~~
 40 **another state where the standards for massage therapy**
 41 **education are substantially the same as the standards in**
 42 **Indiana, including the requirement of at least five**



- 1 **hundred (500) hours of supervised classroom and hands**
 2 **on instruction in massage therapy; or**
 3 ~~(iii)~~ **is accredited by the state workforce innovation council**
 4 ~~under IC 22-4.1-21 or accredited by another state where the~~
 5 ~~standards for massage therapy education are substantially~~
 6 ~~the same as the standards in Indiana, or~~
 7 ~~(iv)~~ **(iii) is completed** a program at an institution of higher
 8 learning that is approved by the board; and
 9 (D) has taken and passed a ~~certification~~ **licensure** examination
 10 approved by the board.
 11 ~~(2)~~ **(3)** Provide a history of any criminal convictions the
 12 individual has, including any convictions related to the practice
 13 of the profession. The board shall deny an application for
 14 certification if the applicant:
 15 (A) has been convicted of:
 16 (i) prostitution;
 17 (ii) rape; or
 18 (iii) sexual misconduct; or
 19 (B) is a registered sex offender.
 20 ~~(3)~~ **(4)** Provide proof that the applicant currently has professional
 21 liability insurance **with minimum coverage of two million**
 22 **dollars (\$2,000,000) per claim and six million dollars**
 23 **(\$6,000,000) in aggregate.**
 24 **(5) Consent to a fingerprint based criminal history**
 25 **background check as defined in IC 10-13-3-12 as required by**
 26 **the board.**
 27 ~~(4)~~ **(6)** Verify the information submitted on the application form.
 28 ~~(5)~~ **(7)** Pay fees established by the board.
 29 SECTION 13. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007,
 30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 3. An individual who is not ~~certified~~ **licensed**
 32 under this article may not:
 33 (1) profess to be a ~~certified~~ **licensed** massage therapist; or
 34 (2) use:
 35 (A) the title "Certified Massage Therapist", or "Massage
 36 Therapist", "**Licensed Massage Therapist**", "**Medical**
 37 **Massage Therapist**", "**Clinical Massage Therapist**",
 38 "**Masseuse**", "**Masseur**", "**Bodyworker**", "**Muscle**
 39 **Mechanic**", or a similar term; or
 40 (B) the abbreviation "CMT", or "MT", "LMT", "MMT", or
 41 **other initials, words, letters, abbreviations, or insignia** to
 42 imply the person that the individual is a ~~certified~~ **licensed**



1 message therapist or practices massage therapy; or
2 **(3) practice or offer to provide massage therapy.**

3 SECTION 14. IC 25-21.8-4-3.5 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2017]: **Sec. 3.5. (a) An individual who is not**
6 **licensed under this article may not advertise, publicly or privately,**
7 **that the individual is a massage therapist or provides massage**
8 **therapy.**

9 **(b) An individual may not display or disseminate an**
10 **advertisement, publicly or privately, for massage therapy that**
11 **indicates or implies that massage therapy will be provided that**
12 **includes sexual activity.**

13 **(c) An advertisement for massage therapy by a massage**
14 **therapist must include the following information:**

15 **(1) The massage therapist's name.**

16 **(2) The massage therapist's license number.**

17 SECTION 15. IC 25-21.8-4-4, AS ADDED BY P.L.177-2009,
18 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2017]: **Sec. 4. ~~A massage therapist~~ An individual** who is
20 **~~certified~~ licensed as a massage therapist** under this article shall
21 **provide display proof of ~~certification~~ licensure in a conspicuous**
22 **location where the individual when practicing practices** massage
23 **therapy.**

24 SECTION 16. IC 25-21.8-4-5 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2017]: **Sec. 5. This article does not prohibit**
27 **the following:**

28 **(1) An individual who has a license, registration, certificate,**
29 **or permit from the state from acting within the scope of the**
30 **individual's license, registration, certificate, or permit.**

31 **(2) A student of an approved massage therapy school from**
32 **performing massage therapy under the supervision of the**
33 **approved massage therapy school, if the student does not**
34 **profess to be a licensed massage therapist.**

35 **(3) An individual's practice in one (1) or more of the following**
36 **areas that does not involve intentional soft tissue**
37 **manipulation:**

38 **(A) Alexander Technique.**

39 **(B) Feldenkrais.**

40 **(C) Reiki.**

41 **(D) Therapeutic Touch.**

42 **(4) An individual's practice in which the individual provides**



1 service marked bodywork approaches that involve intentional soft
2 tissue manipulation including:

- 3 (A) Rolfing;
4 (B) Trager Approach;
5 (C) Polarity Therapy; and
6 (D) Ortho-bionomy;

7 if the individual is approved by a governing body based on a
8 minimum level of training, demonstration of competency, and
9 adherence to ethical standards.

10 (5) The practice of massage therapy by a person either actively
11 licensed as a massage therapist in another state or currently
12 certified by the National Certification Board of Therapeutic
13 Massage and Bodywork or other national certifying body if the
14 person's state does not license massage therapists, if the
15 individual is performing duties for a non-Indiana based team or
16 organization, or for a national athletic event held in Indiana, so
17 long as the individual restricts the individual's practice to the
18 individual's team or organization during the course of the
19 individual's or the individual's team or the individual's
20 organization's stay in Indiana or for the duration of the event.

21 (6) Massage therapists from other states or countries providing
22 educational programs in Indiana for a period not to exceed thirty
23 (30) days within a calendar year.

24 SECTION 17. IC 25-21.8-4-6 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2017]: **Sec. 6. If an individual certified by the**
27 **board as a massage therapist as of June 30, 2017, submits a license**
28 **application:**

29 (1) before January 1, 2018; or

30 (2) within six (6) months after the board's adoption of a
31 license application;

32 **whichever is earlier, the individual may practice massage therapy**
33 **without a license issued under this article until a license is granted**
34 **or the application is denied, whichever occurs first.**

35 SECTION 18. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007,
36 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2017]: Sec. 1. (a) The board may grant ~~certification licensure~~
38 by endorsement to an individual who:

39 (1) is licensed, certified, or registered in another state having
40 credentialing standards that are at least as strict as the
41 **substantially equivalent to or that exceed the** credentialing
42 standards specified under this article;



1 (2) **has no pending disciplinary actions in relation to the**
 2 **performance of massage therapy and** is in good standing with
 3 the standards of the other state or country;

4 (3) pays an application fee established by the board; ~~and~~

5 (4) provides a history of the individual's criminal convictions, if
 6 any, including any criminal convictions relating to the practice of
 7 the profession; **and**

8 **(5) consents to a fingerprint based criminal history**
 9 **background check in the manner prescribed by the board.**

10 (b) The board shall deny an application for ~~certification~~ **licensure**
 11 if the applicant:

12 (1) has been convicted of:

13 (A) prostitution;

14 (B) rape; or

15 (C) sexual misconduct; or

16 (2) is a registered sex offender.

17 (c) An applicant for a ~~certification~~ **licensure** by endorsement shall
 18 cause each state that previously credentialed the applicant to provide
 19 the board with the applicant's current status in the state.

20 SECTION 19. IC 25-21.8-6-1, AS AMENDED BY P.L.177-2015,
 21 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2017]: Sec. 1. (a) Subject to IC 25-1-2-6(e), a ~~certification~~
 23 **license** issued by the board is valid for four (4) years.

24 (b) A ~~certification~~ **license** expires:

25 (1) at midnight on the date established by the licensing agency
 26 under IC 25-1-6-4, subject to IC 25-1-2-6(e); and

27 (2) every four (4) years thereafter, unless renewed before that
 28 date.

29 SECTION 20. IC 25-21.8-6-2, AS ADDED BY P.L.200-2007,
 30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 2. An individual who applies to renew
 32 ~~certification~~ a **license** as a massage therapist must:

33 (1) apply for renewal in the manner required by the board;

34 **(2) furnish evidence of successful completion of twenty-four**
 35 **(24) hours of continuing education within the most recent four**
 36 **(4) year period, as approved by the board; and**

37 ~~(2)~~ **(3)** pay a renewal fee established by the board.

38 SECTION 21. IC 25-21.8-7-1, AS ADDED BY P.L.200-2007,
 39 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2017]: Sec. 1. (a) This section does not apply to the violation
 41 of a rule adopted by the board.

42 (b) ~~A person~~ **Except as provided in IC 25-21.8-4-3.5, an**



1 **individual** who knowingly violates or causes a violation of this article
2 commits a Class C misdemeanor.

3 SECTION 22. IC 25-21.8-7-3, AS ADDED BY P.L.200-2007,
4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2017]: Sec. 3. If an individual ~~certified~~ **licensed** under this
6 article is convicted of a crime, the individual is responsible for
7 notifying the board not later than thirty (30) days after the conviction.

8 SECTION 23. IC 25-21.8-7-4 IS ADDED TO THE INDIANA
9 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2017]: **Sec. 4. On July 1, 2017, any pending**
11 **investigation or disciplinary action against a massage therapist**
12 **who was licensed under this article on June 30, 2017, shall be**
13 **treated after June 30, 2017, as an investigation or disciplinary**
14 **action against the massage therapist who is licensed on July 1,**
15 **2017.**

16 SECTION 24. IC 25-21.8-8 IS ADDED TO THE INDIANA CODE
17 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2017]:

19 **Chapter 8. Preemption of Local Ordinances, Resolutions, Rules,**
20 **and Policies**

21 **Sec. 1. This article supersedes any:**

- 22 (1) ordinance;
- 23 (2) resolution;
- 24 (3) rule; or
- 25 (4) policy;

26 **that has the force of law adopted by a municipality, county, or**
27 **other governmental unit relating to the licensure, certification, or**
28 **registration of massage therapists.**

29 **Sec. 2. This article does not affect any local ordinance,**
30 **resolution, rule, or policy that has the force of law relating to:**

- 31 (1) zoning; or
- 32 (2) occupational license fees;

33 **adopted by a municipality, county, or other governmental unit and**
34 **pertaining to massage therapists.**

