



April 4, 2017

ENGROSSED HOUSE BILL No. 1289

DIGEST OF HB 1289 (Updated March 30, 2017 1:17 pm - DI 130)

Citations Affected: IC 25-0.5; 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. Provides that an individual may not use certain titles or practice massage therapy without a license. Establishes certain prohibitions and requirements for
(Continued next page)

Effective: July 1, 2017.

Bacon, Ober, Morris, Candelaria Reardon

(SENATE SPONSOR — BECKER)

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

February 21, 2017, amended, reported — Do Pass.

February 23, 2017, read second time, ordered engrossed. Engrossed.

February 27, 2017, read third time, passed. Yeas 75, nays 19.

SENATE ACTION

March 1, 2017, read first time and referred to Committee on Commerce and Technology.

April 3, 2017, amended, reported favorably — Do Pass.

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Digest Continued

massage therapy advertisements. Provides for the transition to licensure for massage therapists who are certified on the effective date of rules adopted by the board for massage therapy licensure. 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 business licenses. Provides for a criminal background check for massage therapists in accordance with the existing professional licensing agency standard. Provides that the bill does not prohibit: (1) an individual's practice of reflexology; and (2) an employee of a podiatrist, or of a group of podiatrists, from performing specified, customary work under the direction and supervision of the employing podiatrist or the employing group. Makes conforming changes.

EH 1289—LS 7403/DI 130



April 4, 2017

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.

ENGROSSED 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~~

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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 referred to**
 18 **in IC 25-10-1-14;** and

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

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

26 SECTION 6. IC 25-21.8-1-6 IS ADDED TO THE INDIANA CODE
 27 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2017]: **Sec. 6. "Unit" has the meaning set forth in IC 36-1-2-23.**

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

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

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

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

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

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

42 (A) be **certified licensed** under this article;



1 (B) be the spouse of an individual who is ~~certified~~ **licensed** or
 2 intends to be ~~certified~~ **licensed** under this article; or

3 (C) have a direct or an indirect financial interest in the
 4 profession regulated under this article.

5 ~~(b) A massage therapist member of the board is not required to be~~
 6 ~~a member of a professional massage therapy association. However:~~

7 ~~(1) not more than one (1) massage therapist member appointed to~~
 8 ~~the board may belong to the same professional massage therapy~~
 9 ~~association; and~~

10 ~~(2) one (1) massage therapist member must not be a member of~~
 11 ~~a professional massage therapy association.~~

12 SECTION 8. IC 25-21.8-2-4, AS ADDED BY P.L.200-2007,
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2017]: Sec. 4. (a) A vacancy in the membership of the board
 15 shall be filled by an individual appointed by the governor for the
 16 unexpired term **in the same manner as the original appointment was**
 17 **made.**

18 (b) A member may not serve more than two (2) consecutive terms
 19 in addition to any unexpired term to which the individual was
 20 appointed. A member may serve until a successor has been appointed
 21 and qualified under this chapter.

22 (c) A member of the board may be removed for cause by the
 23 governor.

24 SECTION 9. IC 25-21.8-2-8, AS ADDED BY P.L.200-2007,
 25 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2017]: Sec. 8. ~~A Each~~ member of the board is ~~not~~ entitled to
 27 a per diem allowance ~~or~~ **and** any other compensation for the
 28 performance of the member's duties **in accordance with**
 29 **IC 4-10-11-2.1.**

30 SECTION 10. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007,
 31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2017]: Sec. 1. (a) The board shall do the following:

33 (1) Administer and enforce this article.

34 (2) Adopt rules under IC 4-22-2 for the administration and
 35 enforcement of this article.

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 completed a massage therapy school or
 33 program that:
- 34 (i) requires at least five hundred (500) hours of supervised
 35 classroom and hands on instruction on massage therapy;
- 36 (ii) is in good standing with a state, regional, or national
 37 agency of government charged with regulating massage
 38 therapy schools or programs; and
- 39 (iii) is accredited by the state workforce innovation council
 40 under IC 22-4.1-21 or accredited by another state where the
 41 standards for massage therapy education are substantially
 42 the same as the standards in Indiana, or is a program at an



- 1 institution of higher learning that is approved by the board;
 2 and
 3 (D) has taken and passed a ~~certification~~ **licensure** examination
 4 approved by the board.
 5 ~~(2)~~ **(3)** Provide a history of any criminal convictions the
 6 individual has, including any convictions related to the practice
 7 of the profession. The board shall deny an application for
 8 ~~certification~~ **licensure** if the applicant:
 9 (A) has been convicted of:
 10 (i) prostitution;
 11 (ii) rape; or
 12 (iii) sexual misconduct; or
 13 (B) is a registered sex offender.
 14 ~~(3)~~ **(4)** Provide proof that the applicant currently has professional
 15 liability insurance **with minimum coverage of two million**
 16 **dollars (\$2,000,000) per claim and six million dollars**
 17 **(\$6,000,000) in aggregate.**
 18 **(5) Submit to a national criminal history background check as**
 19 **prescribed by IC 25-0.5-1-9.**
 20 ~~(4)~~ **(6)** Verify the information submitted on the application form.
 21 ~~(5)~~ **(7)** Pay fees established by the board.

22 SECTION 13. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007,
 23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2017]: Sec. 3. An individual who is not ~~certified~~ **licensed**
 25 under this article may not:

- 26 (1) profess to be a ~~certified~~ **licensed** massage therapist; ~~or~~
 27 (2) use:
 28 (A) the title "Certified Massage Therapist", ~~or~~ "Massage
 29 Therapist", "**Licensed Massage Therapist**", "**Medical**
 30 **Massage Therapist**", "**Clinical Massage Therapist**",
 31 "**Masseuse**", "**Masseur**", "**Bodyworker**", "**Muscle**
 32 **Mechanic**", or a similar term; or
 33 (B) the abbreviation "CMT", ~~or~~ "MT", "LMT", "MMT", or
 34 **other initials, words, letters, abbreviations, or insignia** to
 35 imply the ~~person that the individual~~ is a ~~certified~~ **licensed**
 36 massage therapist **or practices massage therapy; or**
 37 **(3) practice or offer to provide massage therapy.**

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



1 therapy.

2 (b) An individual may not display or disseminate an
3 advertisement, publicly or privately, for massage therapy that
4 indicates or implies that massage therapy will be provided that
5 includes sexual activity.

6 (c) An advertisement for massage therapy by a massage
7 therapist must include the following information:

8 (1) The massage therapist's name.

9 (2) The massage therapist's license number.

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

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

21 (1) An individual who has a license, registration, certificate,
22 or permit from the state from acting within the scope of the
23 individual's license, registration, certificate, or permit.

24 (2) An individual who participates in an approved training
25 program for the purpose of acquiring a license, registration,
26 certificate, or permit from the state from performing
27 activities within the scope of the approved training program.

28 (3) A student of an approved massage therapy school from
29 performing massage therapy under the supervision of the
30 approved massage therapy school, if the student does not
31 profess to be a licensed massage therapist.

32 (4) An individual's practice in one (1) or more of the following
33 areas that does not involve intentional soft tissue
34 manipulation:

35 (A) Alexander Technique.

36 (B) Feldenkrais.

37 (C) Reiki.

38 (D) Therapeutic Touch.

39 (5) An individual's practice in which the individual provides
40 service marked bodywork approaches that involve intentional
41 soft tissue manipulation, including:

42 (A) Rolfing;



- 1 **(B) Trager Approach;**
 2 **(C) Polarity Therapy;**
 3 **(D) Ortho-bionomy; and**
 4 **(E) Reflexology;**
 5 **if the individual is approved by a governing body based on a**
 6 **minimum level of training, demonstration of competency, and**
 7 **adherence to ethical standards.**
 8 **(6) The practice of massage therapy by a person either**
 9 **actively licensed as a massage therapist in another state or**
 10 **currently certified by the National Certification Board of**
 11 **Therapeutic Massage and Bodywork or other national**
 12 **certifying body if the person's state does not license massage**
 13 **therapists, if the individual is performing duties for a**
 14 **non-Indiana based team or organization, or for a national**
 15 **athletic event held in Indiana, so long as the individual**
 16 **restricts the individual's practice to the individual's team or**
 17 **organization during the course of the individual's or the**
 18 **individual's team's or the individual's organization's stay in**
 19 **Indiana or for the duration of the event.**
 20 **(7) Massage therapists from other states or countries**
 21 **providing educational programs in Indiana for a period not**
 22 **to exceed thirty (30) days within a calendar year.**
 23 **(8) An employee of a physician or a group of physicians from**
 24 **performing an act, a duty, or a function to which the**
 25 **exception described in IC 25-22.5-1-2(a)(20) applies.**
 26 **(9) An employee of a chiropractor from performing an act,**
 27 **duty, or function authorized under IC 25-10-1-13.**
 28 **(10) An employee of a podiatrist or a group of podiatrists**
 29 **from performing an act, duty, or function to which the**
 30 **exception described in IC 25-29-1-0.5(a)(13) applies.**
 31 **(11) A dramatic portrayal or some other artistic performance**
 32 **or expression involving the practice of massage therapy.**
 33 **(12) The practice of massage therapy by a member of an**
 34 **emergency response team during a period of active emergency**
 35 **response.**
 36 **SECTION 17. IC 25-21.8-4-6 IS ADDED TO THE INDIANA**
 37 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 38 **[EFFECTIVE JULY 1, 2017]: Sec. 6. (a) This subsection applies to**
 39 **an individual who holds a certification by the board as a massage**
 40 **therapist on the effective date of the rules adopted by the board for**
 41 **massage therapy licensure. An individual to whom this subsection**
 42 **applies is considered to be licensed from the effective date of the**



1 rules adopted by the board for massage therapy licensure, and the
 2 board shall thereafter renew the person's license in accordance
 3 with IC 25-21.8-6. If an individual to whom this subsection applies
 4 becomes licensed under this subsection, the expiration date of the
 5 license is the same as the expiration date of the certification that
 6 the individual held on the effective date of the rules adopted by the
 7 board for massage therapy licensure.

8 (b) This subsection applies to an individual who is not certified
 9 by the board as a massage therapist and who is practicing massage
 10 therapy for compensation in Indiana on the effective date of the
 11 rules adopted by the board for massage therapy licensure. An
 12 individual to whom this subsection applies may continue practicing
 13 massage therapy in Indiana without a massage therapy license
 14 until the date occurring one hundred eighty-three (183) days after
 15 the effective date of the rules adopted by the board for massage
 16 therapy licensure. On or after the date occurring one hundred
 17 eighty-three (183) days after the effective date of the rules adopted
 18 by the board for massage therapy licensure, an individual to whom
 19 this subsection applies may not practice massage therapy in
 20 Indiana unless the individual obtains a massage therapy license. A
 21 person to whom this subsection applies may obtain a massage
 22 therapy license by doing the following:

23 (1) The individual must apply for licensure before the date
 24 occurring one hundred eighty-three (183) days after the
 25 effective date of the rules adopted by the board for massage
 26 therapy licensure.

27 (2) Provide the board with either:

28 (A) documentation that the applicant has completed and
 29 passed a nationally recognized competency examination in
 30 the practice of massage therapy and an affidavit of at least
 31 five (5) years of work experience in the state; or

32 (B) a certificate and transcript of completion from a
 33 massage therapy program or school with at least five
 34 hundred (500) hours of education.

35 (3) Provide the board with a limited criminal history (as
 36 defined in IC 10-13-3-11).

37 (c) Notwithstanding any other law, the board shall continue to
 38 issue massage therapy certifications under this article until the
 39 effective date of the rules adopted by the board for massage
 40 therapy licensure.

41 SECTION 18. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007,
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2017]: Sec. 1. (a) The board may grant ~~certification~~ **licensure**
 2 by endorsement to an individual who:

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

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

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

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

14 **(5) submits to a national criminal history background check**
 15 **as prescribed by IC 25-0.5-1-9.**

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

18 (1) has been convicted of:

19 (A) prostitution;

20 (B) rape; or

21 (C) sexual misconduct; or

22 (2) is a registered sex offender.

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

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

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

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

33 (2) every four (4) years thereafter, unless renewed before that
 34 date.

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

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

40 **(2) furnish evidence of successful completion of twenty-four**
 41 **(24) hours of continuing education within the most recent four**

42 **(4) year period, as approved by the board; and**



1 (2) (3) pay a renewal fee established by the board.
2 SECTION 21. IC 25-21.8-7-1, AS ADDED BY P.L.200-2007,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2017]: Sec. 1. (a) This section does not apply to the violation
5 of a rule adopted by the board.

6 (b) ~~A person~~ **Except as provided in IC 25-21.8-4-3.5, an**
7 **individual** who knowingly violates or causes a violation of this article
8 commits a Class C misdemeanor.

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

14 SECTION 23. IC 25-21.8-7-4 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2017]: **Sec. 4. On July 1, 2017, any pending**
17 **investigation or disciplinary action against a massage therapist**
18 **who was certified under this article on June 30, 2017, shall be**
19 **treated after June 30, 2017, as an investigation or disciplinary**
20 **action against the massage therapist who is licensed on July 1,**
21 **2017.**

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

25 **Chapter 8. Preemption of Local Ordinances, Resolutions, Rules,**
26 **and Policies**

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

- 28 (1) ordinance;
- 29 (2) resolution;
- 30 (3) rule; or
- 31 (4) policy;

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

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

- 37 (1) zoning; or
- 38 (2) business licenses;

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



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1289, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, delete ";" and insert "**referred to in IC 25-10-1-14;**".

Page 3, line 17, reset in roman "A member may not serve more than two (2) consecutive terms".

Page 3, reset in roman line 18.

Page 3, line 19, reset in roman "appointed."

Page 3, line 34, delete ", including rules to further define the" and insert ".".

Page 3, delete line 35.

Page 4, delete lines 21 through 42, begin a new paragraph and insert:

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

(1) Complete and submit the licensure application in the form and manner provided by the board.

(+)(2) Furnish evidence satisfactory to the board showing that the individual:

- (A) is at least eighteen (18) years of age;
- (B) has a high school diploma or the equivalent of a high school diploma;
- (C) has successfully completed a massage therapy school or program that:
 - (i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on massage therapy;
 - (ii) is in good standing with a state, regional, or national agency of government charged with regulating massage therapy schools or programs; and
 - (iii) is accredited by the state workforce innovation council under IC 22-4.1-21 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and
- (D) has taken and passed a ~~certification~~ **licensure** examination



approved by the board.

~~(2)~~ **(3)** Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. The board shall deny an application for certification if the applicant:

(A) has been convicted of:

- (i) prostitution;
- (ii) rape; or
- (iii) sexual misconduct; or

(B) is a registered sex offender.

~~(3)~~ **(4)** Provide proof that the applicant currently has professional liability insurance **with minimum coverage of two million dollars (\$2,000,000) per claim and six million dollars (\$6,000,000) in aggregate.**

(5) Consent to a limited criminal history (as defined in IC 10-13-3-11) as required by the board.

~~(4)~~ **(6)** Verify the information submitted on the application form.

~~(5)~~ **(7)** Pay fees established by the board."

Page 5, delete lines 1 through 28.

Page 6, delete lines 24 through 42, begin a new paragraph and insert:

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

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

(2) An individual who participates in an approved training program for the purpose of acquiring a license, registration, certificate, or permit from the state from performing activities within the scope of the approved training program.

(3) A student of an approved massage therapy school from performing massage therapy under the supervision of the approved massage therapy school, if the student does not profess to be a licensed massage therapist.

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

(A) Alexander Technique.

(B) Feldenkrais.

(C) Reiki.



(D) Therapeutic Touch.

(5) An individual's practice in which the individual provides service marked bodywork approaches that involve intentional soft tissue manipulation, including:

- (A) Roling;**
- (B) Trager Approach;**
- (C) Polarity Therapy; and**
- (D) Ortho-bionomy;**

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

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

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

(8) An employee of a physician or a group of physicians from performing an act, a duty, or a function to which the exception described in IC 25-22.5-1-2(a)(20) applies.

(9) An employee of a chiropractor from performing an act, duty, or function authorized under IC 25-10-1-13.

(10) A dramatic portrayal or some other artistic performance or expression involving the practice of massage therapy.

(11) The practice of massage therapy by a member of an emergency response team during a period of active emergency response."

Page 7, delete lines 1 through 34, begin a new paragraph and insert:

"SECTION 17. IC 25-21.8-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) This subsection applies to an individual who holds a certification by the board as a massage therapist on the effective date of the rules adopted by the board for



massage therapy licensure. An individual to whom this subsection applies is considered to be licensed from the effective date of the rules adopted by the board for massage therapy licensure, and the board shall thereafter renew the person's license in accordance with IC 25-21.8-6. If an individual to whom this subsection applies becomes licensed under this subsection, the expiration date of the license is the same as the expiration date of the certification that the individual held on the effective date of the rules adopted by the board for massage therapy licensure.

(b) This subsection applies to an individual who is not certified by the board as a massage therapist and who is practicing massage therapy for compensation in Indiana on the effective date of the rules adopted by the board for massage therapy licensure. An individual to whom this subsection applies may continue practicing massage therapy in Indiana without a massage therapy license until the date occurring one hundred eighty-three (183) days after the effective date of the rules adopted by the board for massage therapy licensure. On or after the date occurring one hundred eighty-three (183) days after the effective date of the rules adopted by the board for massage therapy licensure, an individual to whom this subsection applies may not practice massage therapy in Indiana unless the individual obtains a massage therapy license. A person to whom this subsection applies may obtain a massage therapy license by doing the following:

- (1) The individual must apply for licensure before the date occurring one hundred eighty-three (183) days after the effective date of the rules adopted by the board for massage therapy licensure.
- (2) Provide the board with either:
 - (A) documentation that the applicant has completed and passed a nationally recognized competency examination in the practice of massage therapy and an affidavit of at least five (5) years of work experience in the state; or
 - (B) a certificate and transcript of completion from a massage therapy program or school with at least five hundred (500) hours of education.
- (3) Provide the board with a limited criminal history (as defined in IC 10-13-3-11).

(c) Notwithstanding any other law, the board shall continue to issue massage therapy certifications under this article until the effective date of the rules adopted by the board for massage therapy licensure."



Page 8, line 8, delete "fingerprint based" and insert "**limited**".

Page 8, line 9, delete "background check".

Page 9, line 12, delete "licensed" and insert "**certified**".

Page 9, line 32, delete "occupational license fees;" and insert "**business licenses;**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1289 as introduced.)

VANNATTER

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1289, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 8, strike "certification" and insert "**licensure**".

Page 5, delete lines 18 through 19, begin a new line block indented and insert:

"(5) Submit to a national criminal history background check as prescribed by IC 25-0.5-1-9."

Page 7, line 2, delete "and".

Page 7, line 3, after ";" insert "**and**

(E) Reflexology;".

Page 7, between lines 26 and 27, begin a new line block indented and insert:

"(10) An employee of a podiatrist or a group of podiatrists from performing an act, duty, or function to which the exception described in IC 25-29-1-0.5(a)(13) applies."

Page 7, line 27, delete "(10)" and insert "**(11)**".

Page 7, line 29, delete "(11)" and insert "**(12)**".

Page 9, delete lines 10 through 11, begin a new line block indented and insert:



"(5) submits to a national criminal history background check as prescribed by IC 25-0.5-1-9."

Page 9, line 34, after "certification" delete "a" and insert "a".

and when so amended that said bill do pass.

(Reference is to HB 1289 as printed February 21, 2017.)

MESSMER, Chairperson

Committee Vote: Yeas 9, Nays 0.

