

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 ENROLLED ACT No. 1289

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

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

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

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

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

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

(1) means ~~the application of massage techniques on the human body;~~ **a health care service involving the external manipulation or pressure of soft tissue for the purposes of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving**

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**circulation of the human body;**

(2) includes:

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

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

(3) does not include:

(A) spinal manipulation **or grade 5 mobilization referred to in IC 25-10-1-14;** and

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

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

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

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

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

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

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

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

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

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

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

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



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

- (1) not more than one (1) massage therapist member appointed to the board may belong to the same professional massage therapy association; and
- (2) one (1) massage therapist member must not be a member of a professional massage therapy association.

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

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

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

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

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

- (1) Administer and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for ~~certification licensure~~ **licensure** under this article.
- (4) Issue, deny, or renew ~~certifications licenses~~ **certifications licenses** under this article.
- (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline individuals who are ~~certified licensed~~ **certified licensed** under this article for violations of this article.
- (6) Establish reasonable fees for ~~examination, examinations, certification license~~ **examination, examinations, certification license** applications, renewal of ~~certifications, licenses~~ **certifications, licenses**, and other services.
- (7) Maintain a record of all proceedings.
- (8) Maintain records of ~~certified licensed~~ **certified licensed** massage therapists.



(9) Adopt at least two (2) examinations that an applicant may use for ~~certification~~ **licensure** under this article.

(b) The board may do the following:

(1) Conduct administrative hearings.

(2) Administer oaths in matters relating to the discharge of the official duties of the board.

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

(1) ~~made to the board in the form and manner provided by the board; and~~

(2) ~~accompanied by an application fee in the amount set by the board.~~

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

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~~ **licensure** 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) **Submit to a national criminal history background check as prescribed by IC 25-0.5-1-9.**

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

(5) (7) Pay fees established by the board.

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

(1) profess to be a ~~certified~~ **licensed** massage therapist; or

(2) use:

(A) the title "Certified Massage Therapist", or "Massage Therapist", "**Licensed Massage Therapist**", "**Medical Massage Therapist**", "**Clinical Massage Therapist**", "**Masseuse**", "**Masseur**", "**Bodyworker**", "**Muscle Mechanic**", or a similar term; or

(B) the abbreviation "CMT", or "MT", "LMT", "MMT", or **other initials, words, letters, abbreviations, or insignia** to imply ~~the person that the individual~~ is a ~~certified~~ **licensed** massage therapist or practices massage therapy; or

(3) **practice or offer to provide massage therapy.**

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

(b) **An individual may not display or disseminate an advertisement, publicly or privately, for massage therapy that indicates or implies that massage therapy will be provided that**



includes sexual activity.

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

- (1) The massage therapist's name.
- (2) The massage therapist's license number.

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

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) Rolfing;
  - (B) Trager Approach;
  - (C) Polarity Therapy;
  - (D) Ortho-bionomy; and
  - (E) Reflexology;



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) 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.

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

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

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.

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

(1) is licensed, certified, or registered in another state having credentialing standards that are at least as strict as the





**substantially equivalent to or that exceed the** credentialing standards specified under this article;

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

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

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

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

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

(1) has been convicted of:

(A) prostitution;

(B) rape; or

(C) sexual misconduct; or

(2) is a registered sex offender.

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

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

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

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

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

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

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

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

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

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

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



of a rule adopted by the board.

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

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

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

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

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

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

- (1) ordinance;
- (2) resolution;
- (3) rule; or
- (4) policy;

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

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

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

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



\_\_\_\_\_  
Speaker of the House of Representatives

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President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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