

HOUSE BILL No. 1293

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-21.8.

Synopsis: Massage therapist licensing. Provides that an individual must be licensed by the state board of massage therapy (board) to engage in the practice of massage therapy. (Under current law, massage therapists are certified by the board but certification is not required for the practice of massage therapy.) Removes provisions concerning membership in a professional massage therapy association as a component for determining membership on the board. Allows the board to approve massage therapy school curricula. Provides that a person may not practice massage therapy for compensation or use certain titles without a license. Allows for inactive licenses. Provides for the transition to licensure for massage therapists who are certified on June 30, 2014. Allows the temporary practice of massage therapy without a license in certain circumstances. Provides that the massage therapy licensing requirements do not apply to a health care provider who is acting within the scope of the health care provider's license, registration, or certificate. 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, 2014.

Hale

January 15, 2014, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1293

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 25-21.8-1-5, AS ADDED BY P.L.200-2007,
- 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2014]: Sec. 5. "Massage therapist" means an individual who:
- 4 **(1) is licensed under this article; and**
- 5 **(2) practices massage therapy for compensation.**
- 6 SECTION 2. IC 25-21.8-2-2, AS ADDED BY P.L.200-2007,
- 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2014]: Sec. 2. ~~(a)~~ The board consists of five (5) members
- 9 appointed by the governor as follows:
- 10 (1) Three (3) massage therapists, each of whom:
- 11 (A) is ~~certified~~ **licensed** under this article; and
- 12 (B) has been actively practicing massage therapy for at least
- 13 three (3) of the five (5) years immediately preceding the
- 14 individual's appointment.
- 15 (2) Two (2) members of the general public. A board member
- 16 appointed under this subdivision must not:



- 1 (A) be ~~certified licensed~~ under this article;
- 2 (B) be the spouse of an individual who is ~~certified licensed~~ or
- 3 intends to be ~~certified licensed~~ under this article; or
- 4 (C) have a direct or an indirect financial interest in the
- 5 profession regulated under this article.
- 6 (b) A ~~message therapist member of the board is not required to be~~
- 7 ~~a member of a professional massage therapy association. However:~~
- 8 (1) ~~not more than one (1) message therapist member appointed to~~
- 9 ~~the board may belong to the same professional massage therapy~~
- 10 ~~association; and~~
- 11 (2) ~~one (1) message therapist member must not be a member of~~
- 12 ~~a professional massage therapy association.~~
- 13 SECTION 3. IC 25-21.8-2-9, AS ADDED BY P.L.200-2007,
- 14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2014]: Sec. 9. The board shall adopt **the following** rules under
- 16 IC 4-22-2: ~~regarding~~
- 17 (1) **Rules that establish** standards for the competent practice of
- 18 massage therapy.
- 19 (2) **Rules necessary for the administration and enforcement of**
- 20 **this article.**
- 21 SECTION 4. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007,
- 22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2014]: Sec. 1. (a) The board shall do the following:
- 24 (1) Administer and enforce this article.
- 25 (2) Adopt rules under IC 4-22-2 for the administration and
- 26 enforcement of this article.
- 27 (3) Judge the qualifications of applicants for ~~certification~~
- 28 **licensure** under this article.
- 29 (4) Issue, deny, or renew ~~certifications licenses~~ under this article.
- 30 (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline
- 31 individuals who are ~~certified licensed~~ under this article for
- 32 violations of this article.
- 33 (6) Establish reasonable fees for examination, ~~certification license~~
- 34 applications, renewal of ~~certifications, licenses,~~ and other
- 35 services.
- 36 (7) Maintain a record of all proceedings.
- 37 (8) Maintain records of ~~certified licensed~~ massage therapists.
- 38 (9) Adopt at least two (2) examinations that an applicant may use
- 39 for ~~certification licensure~~ under this article.
- 40 (b) The board may do the following:
- 41 (1) Conduct administrative hearings.
- 42 (2) Administer oaths in matters relating to the discharge of the



1 official duties of the board.

2 **(3) Approve massage therapy school curricula consistent with**
 3 **accepted national educational standards.**

4 SECTION 5. IC 25-21.8-4-0.5 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. This article does not apply to**
 7 **a health care provider who is acting within the scope of the health**
 8 **care provider's license, registration, or certificate.**

9 SECTION 6. IC 25-21.8-4-1, AS ADDED BY P.L.200-2007,
 10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2014]: Sec. 1. An application for a massage therapist
 12 **certification license** must be:

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

17 SECTION 7. IC 25-21.8-4-2, AS AMENDED BY P.L.107-2012,
 18 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2014]: Sec. 2. An individual who applies for **certification**
 20 **licensure** as a massage therapist must do the following:

- 21 (1) Furnish evidence satisfactory to the board showing that the
 22 individual:
 23 (A) is at least eighteen (18) years of age;
 24 (B) has a high school diploma or the equivalent of a high
 25 school diploma;
 26 (C) has successfully completed a massage therapy school or
 27 program that:
 28 (i) requires at least five hundred (500) hours of supervised
 29 classroom and hands on instruction on massage therapy;
 30 (ii) is in good standing with a state, regional, or national
 31 agency of government charged with regulating massage
 32 therapy schools or programs; and
 33 (iii) is accredited by the state workforce innovation council
 34 under IC 22-4.1-21 or accredited by another state where the
 35 standards for massage therapy education are substantially
 36 the same as the standards in Indiana, or is a program at an
 37 institution of higher learning that is approved by the board;
 38 and
 39 (D) has taken and passed a **certification licensing** examination
 40 approved by the board.
 41 (2) Provide a history of any criminal convictions the individual
 42 has, including any convictions related to the practice of the



1 profession. The board shall deny an application for ~~certification~~
 2 **licensure** if the applicant:

3 (A) has been convicted of:

4 (i) prostitution;

5 (ii) rape; ~~or~~

6 (iii) sexual misconduct; or

7 **(iv) a felony that has a direct bearing on the individual's**
 8 **ability to practice competently; or**

9 (B) is a registered sex offender.

10 (3) Provide proof that the applicant has professional liability
 11 insurance in force that lists the state as an additional insured.

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

13 (5) Pay fees established by the board.

14 SECTION 8. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007,
 15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2014]: Sec. 3. **It is unlawful for** an individual who is not
 17 ~~certified licensed~~ under this article ~~may not: to:~~

18 **(1) engage in the practice of massage therapy for**
 19 **compensation;**

20 ~~(+)~~ **(2) profess to be a certified licensed** massage therapist; or

21 ~~(=)~~ **(3) use:**

22 (A) the title "~~Certified Massage Therapist~~" "**Licensed**
 23 **Massage Therapist**", or "~~Massage~~" "**Muscle Therapist**",
 24 "**Licensed Massage Practitioner**", "**Massage Practitioner**",
 25 "**Masseur**", "**Masseuse**", "**Myotherapist**", or
 26 "**bodyworker**"; ~~or~~

27 (B) the abbreviation "~~CMT~~" "**LMT**" or "**MT**"; or

28 **(C) other words, initials, letters, abbreviations, or insignia;**
 29 **to indicate or imply that to imply the person individual is a**
 30 **certified licensed** massage therapist.

31 SECTION 9. IC 25-21.8-4-4, AS ADDED BY P.L.177-2009,
 32 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]: Sec. 4. A massage therapist who is ~~certified licensed~~
 34 under this article shall provide proof of ~~certification~~ **licensure** when
 35 practicing massage therapy.

36 SECTION 10. IC 25-21.8-4-5 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2014]: Sec. 5. **(a) The board may classify a**
 39 **license as inactive if the board receives written notification from a**
 40 **licensed massage therapist stating that the licensed massage**
 41 **therapist will not practice in Indiana.**

42 **(b) The board may reissue a license to a holder of an inactive**



1 license if the holder:

- 2 (1) pays a reactivation fee set by the board; and
 3 (2) is in compliance with any other requirements set by the
 4 board.

5 SECTION 11. IC 25-21.8-4-6 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2014]: **Sec. 6. (a) If an individual is certified
 8 as a massage therapist under this article on June 30, 2014:**

- 9 (1) the individual is considered to be licensed as a massage
 10 therapist on July 1, 2014; and
 11 (2) the board shall issue a license to the individual under this
 12 article.

13 (b) Notwithstanding subsection (a), the board and the licensing
 14 agency are not required to issue:

- 15 (1) a wall license to an individual described in subsection (a);
 16 or
 17 (2) a new pocket license to an individual described in
 18 subsection (a);

19 until the license renewal period beginning December 1, 2014.

20 (c) This section expires January 1, 2015.

21 SECTION 12. IC 25-21.8-4-7 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2014]: **Sec. 7. (a) A person who is:**

- 24 (1) licensed, certified, or registered in another state or
 25 territory, the District of Columbia, or a foreign country; and
 26 (2) providing services as a part of an emergency response
 27 team working in conjunction with disaster relief officials;

28 may practice massage therapy without an Indiana license. The
 29 ability to practice under this subsection lasts only for the duration
 30 of the emergency or disaster.

31 (b) A person who is:

- 32 (1) licensed, certified, or registered in another state or
 33 territory, the District of Columbia, or a foreign country; and
 34 (2) providing service as part of a charity, educational, or
 35 athletic event;

36 may practice massage therapy without an Indiana license. Persons
 37 practicing under this subsection may practice only for the period
 38 the event is taking place.

39 (c) A student practicing massage therapy:

- 40 (1) while enrolled in a program recognized by the board; and
 41 (2) while completing a clinical requirement for graduation;

42 may practice massage therapy without a license. If a student is



1 **practicing massage therapy under this subsection, the school or**
 2 **other entity supervising the student may receive reimbursement**
 3 **for the services performed by the student. The student may not**
 4 **receive compensation for performing services.**

5 SECTION 13. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007,
 6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2014]: Sec. 1. (a) The board may grant ~~certification~~ **licensure**
 8 by endorsement to an individual who:

- 9 (1) is licensed, certified, or registered in another state having
 10 credentialing standards that are **at least as strict as the**
 11 **substantially equivalent to or exceed the** credentialing
 12 standards specified under this article;
 13 (2) is in good standing with the standards of the other state or
 14 country;
 15 (3) pays an application fee established by the board; and
 16 (4) provides a history of the individual's criminal convictions, if
 17 any, including any criminal convictions relating to the practice of
 18 the profession.

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

- 21 (1) has been convicted of:
 22 (A) prostitution;
 23 (B) rape; ~~or~~
 24 (C) sexual misconduct; or
 25 **(D) a felony that has a direct bearing on the individual's**
 26 **ability to practice competently; or**
 27 (2) is a registered sex offender.

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

31 SECTION 14. IC 25-21.8-6-1, AS ADDED BY P.L.200-2007,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]: Sec. 1. A ~~certification~~ **license** issued by the board is
 34 valid for four (4) years. A ~~certification~~ **license** expires at midnight on
 35 the date established by the licensing agency under IC 25-1-6-4 and
 36 every four (4) years thereafter, unless renewed before that date.

37 SECTION 15. IC 25-21.8-6-2, AS ADDED BY P.L.200-2007,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2014]: Sec. 2. An individual who applies to renew
 40 ~~certification~~ **licensure** as a massage therapist must:

- 41 (1) apply for renewal in the manner required by the board; and
 42 (2) pay a renewal fee established by the board.



1 SECTION 16. IC 25-21.8-7-3, AS ADDED BY P.L.200-2007,
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]: Sec. 3. If an individual ~~certified~~ **licensed** under this
 4 article is convicted of a crime, the individual is responsible for
 5 notifying the board not later than thirty (30) days after the conviction.

6 SECTION 17. IC 25-21.8-8 IS ADDED TO THE INDIANA CODE
 7 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2014]:

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

11 **Sec. 1. Except as provided in section 2 of this chapter, this
 12 article supersedes any:**

- 13 (1) ordinance;
- 14 (2) resolution;
- 15 (3) rule; or
- 16 (4) policy;

17 **that has the force of law adopted by a municipality or county
 18 relating to the licensure, certification, or registration of massage
 19 therapists.**

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

- 22 (1) zoning; or
- 23 (2) occupational license fees;

24 **adopted by a municipality or county pertaining to massage
 25 therapists.**

