

HOUSE BILL NO. 1128
with Senate Amendments
HOUSE BILL NO. 1128

Introduced by

Representatives Hatlestad, Longmuir, Pyle, Richter, Rohr, Strinden

Senators Bekkedahl, Kreun

1 A BILL for an Act to amend and reenact subsection 2 of section 43-25-02, subsection 1 of
2 section 43-25-05, subsection 1 of section 43-25-07, section 43-25-09, subsection 1 of section
3 43-25-10, and subsection 1 of section 43-25-18, relating to the practice and licensure of
4 massage therapy.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 43-25-02 of the North Dakota Century
7 Code is amended and reenacted as follows:

- 8 2. a. "Massage" means the practice of massage therapy by the manual application of
9 a system of structured touch to the soft tissues of the human body, including:
- 10 (1) Assessment, evaluation, or treatment;
 - 11 (2) Pressure, friction, stroking, rocking, gliding, kneading, percussion, or
12 vibration;
 - 13 (3) Active or passive stretching of the body within the normal anatomical range
14 of movement;
 - 15 (4) Use of manual methods or mechanical or electrical devices or tools that
16 mimic or enhance the action of human handstouch;
 - 17 (5) Use of topical applications such as lubricants, scrubs, or herbal
18 preparations; and
 - 19 (6) Use of hot or cold applications.
- 20 b. Except as provided in this chapter, "massage" does not include diagnosis or
21 other services that require a license to practice medicine or surgery, osteopathic
22 medicine, chiropractic, occupational therapy, physical therapy, or podiatry and
23 does not include service provided by professionals who act under their
24 state-issued professional license, certification, or registration.

1 **SECTION 2. AMENDMENT.** Subsection 1 of section 43-25-05 of the North Dakota Century
2 Code is amended and reenacted as follows:

- 3 1. The governor shall appoint a board of massage therapy, to consist of five members.
- 4 a. Three members of the board must be massage therapists who are licensed in
5 this state and annually work at least five hundred hours practicing massage in
6 this state and have done so for at least the previous three years. These members
7 must be appointed for terms of three years, staggered so that the term of one
8 member expires each year.
- 9 b. One member of the board must be a consumer member. To qualify as a
10 consumer member an individual may not be or have been a massage therapist,
11 may not have an immediate family member who is a massage therapist, may not
12 be an owner of or have any affiliation with a massage school, ~~may not be a~~
13 ~~current or past member of any other health care licensing entity, may not have a~~
14 ~~fiduciary obligation to a facility rendering health care services, may not have a~~
15 ~~financial interest in the rendering of health care services,~~ and may not have a
16 direct and substantial financial interest in massage therapy. This member must
17 be appointed for a two-year term, staggered so that the term expires with a
18 licensed board member but not with the instructor board member.
- 19 c. One member of the board must be a current or former massage therapy
20 instructor of a massage therapy program that meets the standards set by the
21 board. This member must be appointed for a term of two years, staggered so that
22 the term expires with a licensed board member but not with the consumer board
23 member.
- 24 d. Each member of the board holds office until that member's successor is
25 appointed and qualified. Any member ~~appointed to a term beginning after~~
26 ~~June 30, 2013,~~ may only serve for a total of six consecutive years, after which
27 that member may not be reappointed unless a period of three years has passed
28 since that member last served on the board.

29 **SECTION 3. AMENDMENT.** Subsection 1 of section 43-25-07 of the North Dakota Century
30 Code is amended and reenacted as follows:

- 1 1. Any ~~person~~individual who is eighteen years of age or ~~more and of good moral~~
2 character ~~and temperate habits~~ older is entitled to apply to the board. An applicant
3 may receive a license from the board as a massage therapist if the applicant:
4 a. Presents a diploma or credentials issued by an approved massage therapy
5 education program that meets the standards set by the board;
6 b. Receives a passing score on an examination approved by the board; ~~and~~
7 c. Pays the required fees, which must accompany the application to the board; and
8 d. Meets any other requirements set by the board by rule.

9 **SECTION 4. AMENDMENT.** Section 43-25-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-25-09. License - Display - Renewal - Renewal fee.**

- 12 1. Each licensee shall display the licensee's original ~~license must be conspicuously~~
13 ~~displayed~~ or license renewal card at the licensee's place of practice.
14 2. Except as otherwise provided under this subsection, twenty-four hours of continuing
15 education, or equivalent college credits, submitted every two years is required for
16 renewal of the license. Of the twenty-four hours, twelve hours must be classroom,
17 hands-on hours. For the first renewal after becoming licensed in this state, a minimum
18 of three hours of the required twenty-four hours must be ethics education. If an
19 applicant for renewal is in good standing and has been actively practicing massage for
20 the fifteen years immediately preceding the renewal, six hours of continuing education,
21 or equivalent college credits, submitted every two years is required for renewal of the
22 license. If an applicant for renewal is in good standing and has been actively practicing
23 massage for the twenty-five years immediately preceding the renewal, three hours of
24 continuing education, or equivalent college credits, submitted every two years is
25 required for renewal of the license. The board may accept continuing education
26 attained by remote means. No more than ~~ten hours~~ fifty percent of a licensee's renewal
27 hours may be by remote means. To qualify as continuing education, the remote
28 education must be board-approved for content and suitability as defined in this
29 chapter.
30 a. Licensees with odd-numbered licenses shall report required continuing education
31 on or before February twenty-eighth of each odd-numbered year and pay a

- 1 required renewal fee of two hundred dollars or a lesser amount established by
2 the board.
- 3 b. Licensees with even-numbered licenses shall report required continuing
4 education on or before February twenty-eighth of each even-numbered year and
5 pay a required renewal fee of two hundred dollars or a lesser amount established
6 by the board.
- 7 c. Licensed individuals during their initial licensure period are not required to report
8 hours of continuing education. Thereafter, the licensees shall report continuing
9 education pursuant to subdivisions a and b.
- 10 d. The board may grant an individual waiver based on health issues or other good
11 cause deemed sufficient by the board.
- 12 3. If the board reasonably believes a massage therapist or applicant has a physical or
13 ~~mental~~behavioral health condition jeopardizing the health of those who seek massage
14 from the individual, the board may require the individual to have an appropriate
15 examination by a qualified examiner approved by the board. Refusal to submit to an
16 examination, if the refusal is not due to circumstances beyond the licensee's control,
17 constitutes grounds for discipline under section 43-25-10. If the individual has had or
18 has any communicable disease deemed sufficient to disqualify the applicant to
19 practice massage in the state, the board shall deny a license until the individual
20 furnishes due proof of being physically and mentally competent and sound.
- 21 4. A holder of an expired license may within two years from the date of its expiration have
22 the license renewed upon payment of the required renewal fee. The board may
23 require a new certificate of physical examination and evidence of completion of any
24 required continued educational hours.
- 25 5. All licenseholders must be designated as licensed massage therapists and may not
26 use any title or abbreviation without the designation "massage therapist".
- 27 6. An applicant with training and credentials outside of the United States ~~must~~ shall
28 submit at the applicant's own expense qualifications, credentials, and work experience
29 to ~~one of the following credentialing agencies for review:~~
- 30 a. ~~International education research foundation;~~
- 31 b. ~~International consultants of Delaware, inc.; or~~

1 e. Aa credentialing agency approved by the board.

2 7. Failure to have a review completed by a credentialing agency under subsection 6 and
3 the massage therapy application procedures indemnified by the board may result in
4 the board denying the application. The board may accept or refuse any
5 recommendation made by the credentialing agency.

6 **SECTION 5. AMENDMENT.** Subsection 1 of section 43-25-10 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 1. The license of a massage therapist may be denied, revoked, suspended, or placed on
9 probation for any of the following grounds:

- 10 a. The licensee is guilty of fraud in the practice of massage or fraud or deceit in
11 admission to the practice of massage.
- 12 b. The licensee has been convicted of an offense determined by the board to have
13 a direct bearing upon a person's ability to serve the public as a massage
14 therapist, or, following conviction of any offense, the person is not sufficiently
15 rehabilitated under section 12.1-33-02.1. The conviction of an offense includes
16 conviction in any jurisdiction in the United States of any offense, which if
17 committed within this state would constitute an offense under this state's laws.
- 18 c. The licensee is engaged in the practice of massage under a false or assumed
19 name, or is impersonating another practitioner of a like or different name.
- 20 d. The licensee is addicted to the habitual use of intoxicating liquors, or other legal
21 or illegal drugs, to the extent the licensee is compromised or impaired from
22 performing the professional duties of a massage therapist or is under the
23 influence while assessing, treating, or seeing a client.
- 24 e. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising,
25 the licensee prescribes medicines, drugs, or the licensee infringes on any other
26 licensed profession.
- 27 f. The licensee is guilty of gross negligence in the practice of massage, or is guilty
28 of employing, allowing, or permitting any unlicensed person to perform massage
29 in the licensee's establishment.
- 30 g. The licensee or applicant failed to submit to a physical or behavioral health
31 examination ordered by the board under section 43-25-09.

1 h. The licensee has violated this chapter or any rule adopted by the board.

2 **SECTION 6. AMENDMENT.** Subsection 1 of section 43-25-18 of the North Dakota Century
3 Code is amended and reenacted as follows:

4 1. Any individual who has been duly licensed in another city, county, state, territory, or
5 jurisdiction of the United States, to practice massage, may upon paying a fee of one
6 hundred fifty dollars or a lesser fee set by the board be granted a license to practice in
7 this state without being required to take an examination, if the applicant provides
8 evidence satisfactory to the board ~~the applicant:~~

- 9 a. ~~Is~~The applicant is licensed in good standing in any other city, county, state,
10 territory, or jurisdiction of the United States;
- 11 b. ~~Actively~~The applicant actively practiced for at least two of the last three years;
- 12 c. ~~Graduated~~The applicant graduated from a school of massage or massage
13 therapy program approved by the board which may be proven by presentation of
14 a diploma or credentials;
- 15 d. ~~Passed~~The applicant passed an examination acceptable to the board; and
- 16 e. A massage license granted to the applicant in any other city, county, state,
17 territory, or jurisdiction is not subject to suspension, revocation, or otherwise
18 restricted in any manner for disciplinary purposes; ~~and.~~