

2019 -- S 0576 SUBSTITUTE A AS AMENDED

=====
LC001511/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————
A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF MASSAGE THERAPISTS

Introduced By: Senator Joshua Miller

Date Introduced: March 14, 2019

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-20.8-1, 23-20.8-2.1, 23-20.8-3, 23-20.8-4, 23-20.8-5, 23-20.8-9
2 and 23-20.8-11 of the General Laws in Chapter 23-20.8 entitled "Licensing of Massage
3 Therapists" are hereby amended to read as follows:

4 **23-20.8-1. Definitions.**

5 As used in this chapter:

6 (1) "Board" means the Rhode Island State Board of Licensed Massage Therapists as
7 established within this chapter.

8 (2) "Body works" and "body-works services" means body rubs, body stimulation,
9 manipulation, or conditioning of any part or parts of the body, spa services, and spa treatments
10 performed by any person not licensed under title 23.

11 (3) "Continuing education" means a course of study subsequent to the completion of and
12 in addition to, an approved entry-level program of massage therapy education.

13 (4) "Continuing education units" means an instructional period of at least fifty (50)
14 continuous minutes per hour in a recognized or approved course.

15 (5) "Massage" means the systematic and scientific manipulation of the soft tissues of the
16 body accomplished by the use of digits, hands, forearms, elbows, knees, or feet, hand-held tool or
17 other external apparatus. Massage may include the use of topical applications.

18 ~~(3)~~(6) "Massage therapist" means a person engaged in the practice of massage and is
19 licensed in accordance with this chapter of the general laws of the state of Rhode Island.

1 ~~(4)(7) "Practice of massage"~~ "Massage therapy" means the ~~manual manipulation of the~~
2 ~~soft tissues of the human body through the systematic application of massage techniques~~
3 ~~including: effleurage, petrissage, compression, friction, vibration, percussion, pressure, positional~~
4 ~~holding, movement, range of motion for purposes of demonstrating muscle excursion or muscle~~
5 ~~flexibility, and nonspecific stretching. The term massage includes the external application of~~
6 ~~lubricants or other topical preparations, such as water, heat, and cold, via the use of the hand,~~
7 ~~foot, arm, or elbow, with or without the aid of massage devices, for the purpose of aiding muscle~~
8 ~~relaxation, reducing stress, improving circulation, increasing range of motion, relieving muscular~~
9 ~~pain, and the overall enhancement of health. Massage shall not include: the touch of genitalia;~~
10 ~~diagnosis of illness or disease; the prescribing of drugs, medicines, or exercise; high velocity~~
11 ~~thrust applied to the joints or spine; electrical stimulation; application of ultrasound or any~~
12 ~~services or procedures for which a license to practice medicine, chiropractic, occupational~~
13 ~~therapy, physical therapy, or podiatry is required by law.~~ use of massage for therapeutic purposes,
14 including, but not limited to: pain management, stress reduction, promotion of relaxation and
15 enhancement of general health and well-being. Massage therapy includes, but is not limited to,
16 manipulation of soft tissue and normal movement of the body to develop an appropriate massage
17 therapy session and the delivery of self-care and health maintenance information. Massage
18 therapy does not encompass:

19 (1) Diagnosis;

20 (2) The prescribing of drugs or medicines;

21 (3) Spinal manipulation; and

22 (4) Any service or procedure which a license or registration is required by law including,
23 but not limited to, the practice of medicine, chiropractic, naturopathy, physical therapy,
24 occupational therapy, nutrition, psychotherapy, behavioral health services or podiatry.

25 (8) "Practice of massage therapy" means, the exchange of massage therapy services for
26 currency, goods or services.

27 (9) "Topical applications" means, but is not limited to, lubricants, emollients, non-
28 prescription analgesics, and the use of heat and cold.

29 **23-20.8-2.1. Board of massage therapists.**

30 (a) Within the division of professional regulation of the department of health, there shall
31 be a ~~state board of massage therapy examiners to be~~ Rhode Island state board of licensed massage
32 therapists appointed by the director of the department of health with the approval of the governor.

33 Composition of board members: The board shall consist of seven (7) members who reside in the
34 state of Rhode Island, At all times at least four (4) members shall be massage therapists in good

1 standing, and shall have engaged in the practice of massage therapy for not less than five (5)
2 years. of whom shall be licensed pursuant to this chapter and one of whom One member shall be
3 a member of the general public, ~~and~~ who does not have financial interest in the profession, or is
4 married to or in domestic partnership with someone in the profession. At no time shall more than
5 one board member be an owner of, an instructor of, or otherwise affiliated with a board-approved
6 massage therapy school or a course of instruction. The four (4) members who are licensed
7 pursuant to this chapter shall represent both solo practitioners as well as members of a group
8 practice.

9 (b) The ~~initial~~ board shall be appointed for staggered terms, ~~the longest of which shall not~~
10 ~~exceed three (3) years. After the initial appointments, all terms shall be for two (2) years and a~~
11 ~~member may be reappointed for a second (2nd) term.~~ All terms shall be for two (2) years. No
12 member shall serve more than three (3) consecutive terms. Upon the death, resignation or
13 removal of any member, the director of the department of health, with the approval of the
14 governor, shall appoint to fill vacancies, as they occur, a qualified person to serve on the board
15 for the remainder of his or her term or until his or her successor is appointed and qualified.

16 (c) The board shall elect, at its first meeting of the calendar year, from its members a
17 chair and such other officers as it deems appropriate and necessary to conduct business. The chair
18 shall preside at meetings of the board and shall be responsible for the performance of all duties
19 and functions of the board and shall perform those duties customarily associated with the position
20 in addition to other duties assigned by the board. The board shall designate a member to serve in
21 the absence of the chair.

22 (d) The chair and any other officer shall serve a term of one year commencing with the
23 day of his or her election and ending upon the election of his or her successor.

24 ~~(d)~~(e) The director of the department of health may remove any member of the board for
25 the neglect of any duty required by law or for any incompetent, unprofessional, or dishonorable
26 conduct. Before beginning his or her term of office, each member shall take the oath prescribed
27 by law, a record of which shall be filed with the secretary of state.

28 (f) A board member may be suspended or removed by the director of the department of
29 health for unprofessional conduct, refusal or inability of a board member to perform his or her
30 duties as a member of the board in an efficient, responsible and professional manner, conviction
31 of a felony or of a crime related to the practice of the health care profession, failure to meet the
32 qualifications of this statute, or committing any act prohibited by this statute.

33 (g) Members of the board shall not receive compensation for their attendance at official
34 meetings of the board, or attendance at any meeting that would constitute official board business,

1 including teleconference calls or other board responsibilities.

2 ~~(e)(h)~~ The board shall meet at least quarterly ~~thereafter, shall hold a meeting and elect a~~
3 ~~chairman.~~ The board may hold additional meetings at the call of the chair or at the written request
4 of any three (3) members of the board. ~~The board may appoint such committees as it considers~~
5 ~~necessary to carry out its duties. A majority of the sitting members of the board shall constitute a~~
6 ~~quorum.~~ The chair of the board shall have the authority to call other meetings at his or her
7 discretion.

8 (i) The board may appoint such committees as it considers necessary to carry out its
9 duties.

10 (j) A quorum shall be necessary to conduct official board business or any committee
11 thereof. A majority of the members shall constitute a quorum. The board may enter into executive
12 (closed) session according to relevant law.

13 ~~**23-20.8-3. Practice of massage -- License required -- Use of title limited --**~~
14 ~~**Qualifications for licenses continuing education -- Fees**~~ **Practice of massage therapy --**
15 **License required -- Use of title limited -- Qualifications for licenses continuing education --**
16 **Fees.**

17 (a) A person shall not practice, or hold himself or herself out to others as practicing
18 massage therapy, or as a massage therapist, without first receiving from the board a license to
19 engage in that practice.

20 (b) A person shall hold himself or herself out to others as a massage therapist when the
21 person adopts or uses any title or description, including: "massage therapist," "masseur,"
22 "masseuse," "massagist," "massotherapist," "myotherapist," "body therapist," "massage
23 technician," "massage practitioner," or any derivation of those terms that implies this practice.

24 (c) It shall be unlawful to advertise the practice of massage therapy using the term
25 massage therapy, or any other term that implies a massage technique or method, in any public or
26 private publication or communication by a person not licensed by the state of Rhode Island
27 department of health as a massage therapist. Any person who holds a license to practice as a
28 massage therapist in this state may use the title "licensed, massage therapist" and the abbreviation
29 "LMT." No other persons may assume such title or use such abbreviation or any other word,
30 letters, signs, or figures to indicate that the person using the title is a licensed, massage therapist.
31 A massage therapist's name and license number must conspicuously appear on all of the massage
32 therapist's ~~advertisements~~ print and electronic material. A massage therapist licensed under this
33 chapter must ~~conspicuously display his or her~~ have available his or her license in ~~his or her~~
34 ~~principal place~~ all places of business practice. ~~If the massage therapist does not have a principal~~

1 ~~place of business, or conducts business in any other location, he or she must have a copy of his or~~
2 ~~her license available for inspection while performing any activities related to massage therapy.~~

3 (d)(1) The board shall, by rule, establish requirements for ~~continued~~ continuing
4 education. The board may establish such requirements to be completed and verified ~~biennially or~~
5 annually. The board shall require no more than ~~twelve (12) hours biennially or~~ six (6) ~~hours~~
6 continuing education units annually.

7 (2) Applicants for ~~biennial~~ annual licensure renewal shall meet continuing education
8 requirements as prescribed by the board. On application for renewal of license, massage
9 therapists shall attest to completion of six (6) ~~hours~~ continuing education units annually ~~in scope~~
10 ~~of practice specific offerings~~ that may include, but not be limited to:

11 (i) Formal presentations;

12 (ii) Conferences;

13 (iii) Coursework from a ~~regionally~~ massage school or program, accredited
14 college/university; and/or

15 (iv) Self-study ~~course, such as online courses awarding one education hour for each hour~~
16 ~~completed~~ or online coursework.

17 Such programs or offerings shall be approved or sponsored by a board-approved
18 organization. ~~The board shall require no more than two (2) hours of ethics or standards of practice~~
19 ~~biennially.~~

20 (3) A licensee who fails to complete the continuing education requirements described
21 herein may be subject to disciplinary action pursuant to § 5-40-13.

22 (4) A license may be denied to any applicant who fails to provide satisfactory evidence of
23 completion of continuing education relevant to massage therapy as required herein.

24 (5) The board may waive the requirement for ~~these educational requirements~~ continuing
25 education if the board is satisfied that the applicant has suffered hardship, which may have
26 prevented meeting the educational requirements.

27 (e) The fee for original application for licensure as a massage therapist and for annual
28 license renewal shall be as set forth in § 23-1-54. Fees for all other licenses under this chapter
29 shall be fixed in an amount necessary to cover the cost of administering this chapter.

30 (f) Any person applying for a license under this chapter shall undergo a national criminal
31 background check. Such persons shall apply to the bureau of criminal identification of the state
32 police or local police department for a ~~nationwide~~ national criminal ~~records~~ background check.
33 Fingerprinting shall be required. Upon the discovery of any disqualifying information as defined
34 in subsection (g), the bureau of criminal identification of the state police or the local police

1 department shall inform the applicant, in writing, of the nature of the disqualifying information
2 and, without disclosing the nature of the disqualifying information, shall notify the board, in
3 writing, that disqualifying information has been found. In those situations in which no
4 disqualifying information has been found, the bureau of criminal identification shall inform the
5 applicant and the board in writing of this fact. An applicant against whom disqualifying
6 information has been found may request that a copy of the [national](#) criminal background report be
7 sent to the board, which shall make a judgment regarding the licensure of the applicant. The
8 applicant shall be responsible for payment of the costs of the [national](#) criminal ~~records~~
9 [background](#) check.

10 (g) "Disqualifying information" means those offenses, including, but not limited to, those
11 ~~offenses~~ defined in chapters 34, 34.1, and 37 of title 11, and § 23-17-37.

12 (h) Notwithstanding the above, any city or town may, by ordinance, regulate the opening,
13 the presence, the location, and the operation of any body-works business or any business
14 providing body-works services. Provided, however, no ordinance may impose additional
15 qualifications beyond those adopted by the department of health pursuant to this chapter
16 respecting [national](#) criminal background checks for persons applying for a license.

17 **23-20.8-4. Establishment -- Board of massage therapists -- Powers and duties.**

18 Subject to the provisions of this chapter, the board shall have the ~~following powers and~~
19 ~~duties~~ [authority to implement, interpret and enforce this statute including, but not limited to, the](#)
20 [authority to:](#)

21 (1) Adopt rules and regulations governing the licensure of massage therapists in a manner
22 consistent with the provisions of this chapter and in accordance with the procedures outlined in
23 the Administrative Procedures Act [and promulgated in accordance with state law;](#)

24 [\(2\) Evaluate the qualifications of applicants for licensure;](#)

25 [\(3\) Assess entry-level competence through the use of an examination approved by the](#)
26 [board;](#)

27 [\(4\) Recommend the issuing or renewal of a license to applicants or licensed massage](#)
28 [therapists who meet the qualifications of the statute and all rules applicable to this chapter as](#)
29 [promulgated by the board;](#)

30 ~~(2)~~[\(5\)](#) Establish [and enforce](#) standards of professional and ethical conduct [for licensed](#)
31 [massage therapists;](#)

32 ~~(3)~~[\(6\)](#) Adopt rules that endorse equivalent licensure examinations of another state or
33 territory of the United States, the District of Columbia, or a foreign country and that may include
34 licensure by reciprocity; hold hearing, as necessary, in accordance with the Administrative

1 Procedures Act.

2 ~~(4)(7)~~ Maintain a complete record of all licensed massage therapists, ensure licensee
3 compliance with all established requirements. ~~The board will make an annual report to the~~
4 ~~governor which shall contain duties performed, actions taken and appropriate recommendations.~~

5 (8) The board will make an annual report to the governor that shall contain duties
6 performed, actions taken and appropriate recommendations.

7 (9) Consult The board will consult and advise other regulatory entities as necessary
8 regarding issues pertaining to massage therapy ~~practice~~, education and/or issues related to the
9 regulation of massage therapists.

10 (10) Upon receipt of a complaint, the department of health shall authorize the
11 investigation of any allegations of wrongdoing undertaken by any person, entity, license or
12 organization related to the practice of massage therapy.

13 (11) The board shall review investigative reports deemed necessary by the director and
14 make appropriate recommendations to the director for action including, but not limited to,
15 issuance of a letter of concern or warning of the possible infraction of this statute; issuance of a
16 letter initiating a ten (10) day corrective action period allowing the person practicing to address
17 an infraction; suspension for a period not to exceed ninety (90) days of any license issued under
18 the authority of this chapter; and may, after due notice and hearing revoke the license if it is
19 found that the person practicing massage therapy is in violation of those rules and regulations or
20 any provision of this chapter. The holder of a license shall upon its revocation promptly surrender
21 it to the board or its designee.

22 **23-20.8-5. Application for license -- Issuance or denial of license -- Minimum**
23 **qualifications.**

24 (a) Every person desiring to begin the practice of massage therapy, except exempt
25 persons as provided in this chapter, shall present satisfactory evidence to the division of
26 professional regulation of the department of health that he or she ~~is~~:

27 (1) ~~Over~~ Is over eighteen (18) years of age;

28 (2) ~~Of good moral character (via background check~~ Has submitted to a national criminal
29 background check in accordance with § 23-20.8-3);

30 (3) Has successfully completed an educational program, meeting minimum requirements
31 established by the board, including at least ~~five hundred (500)~~ six hundred fifty (650) hours of
32 supervised in-class, hands-on ~~and supervised~~ coursework and clinical work; and

33 (4) Has successfully completed an examination approved by the board. Any examination
34 approved by the board must meet generally recognized standards including development through

1 the use of a job-task analysis and must meet appropriate psychometric standards.

2 (b) The department may grant a license to any applicant satisfying the requirements of
3 ~~subsections (a)(1) and (a)(2)~~ [§ 23-20.8-5\(a\)](#), has completed all appropriate forms, paid all
4 appropriate fees and has met substantially equivalent standards in obtaining a valid license,
5 permit, certificate or registration issued by any other state or territory of the United States or by a
6 foreign country.

7 (c) The department shall, within sixty (60) days from the time any application for a
8 license is received, grant the applications and issue a license to practice massage [therapy](#) for a
9 year from that date if the department is satisfied that the applicant complies with the rules and
10 regulations promulgated in accordance with this chapter. An applicant, whose [national](#) criminal
11 ~~records~~ [background](#) check reveals a conviction for any sexual offense, including, but not limited
12 to, those offenses defined in chapters 34 and 37 of title 11, shall be denied a license under this
13 chapter.

14 (d) The fee for original application for licensure as a massage therapist and the fee for
15 annual license renewal shall be determined by the ~~board and shall not exceed one hundred dollars~~
16 ~~(\$100)~~ [department of health](#).

17 **23-20.8-9. Persons exempt.**

18 Nothing contained in this chapter shall prohibit:

19 (1) A person who is otherwise licensed certified or registered in accordance with the
20 general laws of Rhode Island, from performing service within his/her or authorized scope of
21 practice and who does not hold himself/herself out to be a massage therapist.

22 (2) A ~~person duly licensed, certified, or registered in~~ [nonresident massage therapist](#)
23 [holding a valid license, permit, certificate or registration issued by](#) another state or territory [of the](#)
24 [United States](#), the District of Columbia, or a foreign country when incidentally in this state to
25 provide service as part of an emergency response team working in conjunction with disaster relief
26 ~~official or as part of a charity event~~ [officials](#).

27 (3) ~~Nonresident practitioners~~ [A nonresident massage therapist](#) holding a valid license,
28 permit, certificate or registration issued by any other state or territory of the United States, [the](#)
29 [District of Columbia](#) or by a foreign country and temporarily practicing massage [therapy](#) in this
30 state for a period not exceeding thirty (30) days for the purpose of presenting educational or
31 clinical programs, lectures, seminars or workshops to massage therapists.

32 (4) ~~Graduates~~ [A graduate](#) from an approved educational program, may practice massage
33 therapy only under the supervision of one, assigned, onsite licensed massage therapist. Graduates
34 have ninety (90) days from the date on the application fee receipt, to meet licensure requirements

1 of this state in accordance with regulations prescribed by the board.

2 (5) ~~Persons~~ A massage therapist who ~~provide~~ provides acceptable evidence of being
3 currently licensed to practice massage therapy by examination or endorsement under the laws of
4 other states or territories of the United States, ~~and~~ the District of Columbia, or by a foreign
5 country have a grace period of forty-five (45) days from the date on the application fee receipt to
6 meet licensure requirements of this state in accordance with regulations prescribed by the board.
7 The original privilege to work forty-five (45) days from the date on the application fee receipt
8 shall not be extended or renewed.

9 (6) A nonresident massage therapist holding a valid license, permit, certificate or
10 registration issued by any other state or territory of the United States, the District of Columbia or
11 by a foreign country when in this state as part of a charity/event where massage is appropriate.
12 ~~Nothing in the article shall be construed to prevent or restrict the practice of any person in this~~
13 ~~state who uses touch, words and directed movement to deepen awareness of existing patterns of~~
14 ~~movement in the body as well as to suggest new possibilities of movement while engaged within~~
15 ~~the scope of practice of a profession with established standards and ethics, provided that his or~~
16 ~~her services are not designated or implied to be massage or massage therapy. Such practices~~
17 ~~include, but are not limited to, the Feldenkrais Method/rs or somatic education, the Rolf Institute's~~
18 ~~Rolf Movement Integration, the Trager Approach/rs to movement education, and Body Mind~~
19 ~~Centering/rs. Practitioners must be recognized by or meet the established standards of either a~~
20 ~~professional organization or credentialing agency that represents or certifies the respective~~
21 ~~practice based on a minimal level of training, demonstration of competency and adherence to~~
22 ~~ethical standards.~~

23 (7) ~~Nothing in the section shall be construed to prevent or restrict the practice of any~~
24 ~~person in this state who uses touch to affect the energy systems, acupoints or Qi meridians~~
25 ~~(channels of energy) of the human body while engaged within the scope of practice of a~~
26 ~~profession with established standards and ethics, provided that his or her service is not designated~~
27 ~~or implied to be massage or massage therapy. Such practices include, but are not limited to,~~
28 ~~Polarity, Polarity Therapy, Polarity Bodywork Therapy, Rosen Method, Asian Bodywork~~
29 ~~Therapy, Acupressure, Jin Shin Do/rs, Qi Gong, Reiki and Shiatsu. Practitioners must be~~
30 ~~recognized by or meet the established standards of either a professional organization or~~
31 ~~credentialing agency that represents or certified the respective practice based on a minimal level~~
32 ~~of training, demonstration of competency and adherence to ethical standards.~~

33 **23-20.8-11. Penalties.**

34 (a) Any person who practices massage therapy or acts in any capacity where a license is

1 required by this chapter, without a license provided for in this chapter, shall be guilty of a
2 misdemeanor ~~and subject to a fine of up to one thousand dollars (\$1,000) or thirty (30) days in~~
3 ~~jail.~~

4 (b) Any owner, operator, manager, or licensee in charge of or in control of a massage
5 therapy ~~establishment~~ practice who knowingly employs a person who is not licensed as a massage
6 therapist, or who allows an unlicensed person to perform, operate, or practice massage therapy is
7 guilty of a misdemeanor ~~and subject to a fine of up to one thousand dollars (\$1,000) and thirty~~
8 ~~(30) days in jail.~~

9 (c) The practice of massage therapy by a person without a license issued under this
10 chapter is declared to be a danger to the public health and welfare. In addition to any other civil,
11 criminal, or disciplinary remedy, the attorney general or prosecuting attorney of any municipality
12 where the person is practicing, or purporting to practice, may maintain an action to enjoin that
13 person from practicing massage therapy until this person secures a valid license.

14 (d) [Deleted by P.L. 2008, ch. 100, art. 6, § 1].

15 SECTION 2. This act shall take effect upon passage.

=====
LC001511/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF MASSAGE THERAPISTS

1 This act would make sweeping changes to the law on massage therapy licensing
2 including the following: It would change the composition of the board of licensed massage
3 therapists so that a majority of its members would be licensed massage therapists. It would
4 require that the department of health investigate complaints and have the board review their
5 report. It would remove the mandatory \$1000 fine and jail time for a conviction for practicing
6 massage therapy without a license. It would increase the required hours of education from 500 to
7 650. It would specify that massage therapy does not encompass diagnosis, prescribing medicines,
8 or any service such as chiropractic, naturopathy, physical therapy, occupational therapy, nutrition,
9 psychotherapy, behavioral health services or podiatry.

10 This act would take effect upon passage.

=====
LC001511/SUB A
=====