

Senator Curtis S. Bramble proposes the following substitute bill:

MESSAGE THERAPY PRACTICE ACT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a license classification for:
 - a certified massage assistant; and
 - a massage assistant in-training;
- ▶ establishes the qualifications and scope of practice for a certified massage assistant and a massage assistant in-training;
- ▶ modifies massage therapist exam requirements;
- ▶ allows a massage therapist to supervise at one time up to six individuals licensed as a massage apprentice or massage assistant in-training;
- ▶ allows certain licensed individuals to supervise at one time up to six individuals licensed as a certified massage assistant; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-47b-102**, as last amended by Laws of Utah 2012, Chapter 34

31 **58-47b-301**, as last amended by Laws of Utah 2013, Chapter 278

32 **58-47b-302**, as last amended by Laws of Utah 2020, Chapter 339

33 **58-47b-303**, as enacted by Laws of Utah 1996, Chapter 76

34 **58-47b-304**, as last amended by Laws of Utah 2021, Chapter 403

35 **58-47b-305**, as last amended by Laws of Utah 1998, Chapter 159

36 **58-47b-501**, as last amended by Laws of Utah 2018, Chapter 318

37 **58-47b-502**, as last amended by Laws of Utah 1998, Chapter 159



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **58-47b-102** is amended to read:

41 **58-47b-102. Definitions.**

42 In addition to the definitions in Section **58-1-102**, as used in this chapter:

43 (1) "Board" means the Board of Massage Therapy created in Section **58-47b-201**.

44 (2) "Breast" means the female mammary gland and does not include the muscles,
45 connective tissue, or other soft tissue of the upper chest.

46 (3) "Certified massage assistant" means an individual licensed under this chapter as a
47 certified massage assistant to engage in the practice of limited massage therapy while working
48 under the indirect supervision of:

49 (a) a massage therapist who has:

50 (i) at least three years of experience as a licensee; and

51 (ii) engaged in the lawful practice of massage therapy for at least 3,000 hours;

52 (b) a physician licensed under Chapter 67, Utah Medical Practice Act;

53 (c) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
54 Practice Act;

55 (d) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
56 Act;

57 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
58 (f) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act.
59 ~~[(3)]~~ (4) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
60 muscular system.

61 ~~[(4)]~~ (5) "Massage apprentice" means an individual licensed under this chapter as a
62 massage apprentice to work under the direct supervision of a licensed massage therapist.

63 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
64 massage assistant in-training to engage in the practice of limited massage therapy while
65 working under the direct supervision of a massage therapist in good standing who has engaged
66 in the lawful practice of massage therapy for at least 6,000 hours.

67 ~~[(5)]~~ (7) "Massage therapist" means an individual licensed under this chapter as a
68 massage therapist.

69 (8) "Practice of limited massage therapy" means:

70 (a) the systematic manual manipulation of the soft tissue of the body for the purpose

71 of:

72 (i) promoting the therapeutic health and well-being of a client;

73 (ii) enhancing the circulation of the blood and lymph;

74 (iii) relaxing and lengthening muscles;

75 (iv) relieving pain;

76 (v) restoring metabolic balance;

77 (vi) achieving homeostasis; or

78 (vii) other purposes;

79 (b) seated chair massage;

80 (c) body wraps;

81 (d) aromatherapy;

82 (e) reflexology; or

83 (f) in connection with an activity described in this Subsection (8) the use of:

84 (i) the hands;

85 (ii) a towel;

86 (iii) a stone;

87 (iv) a shell;

- 88 (v) a bamboo stick; or
- 89 (vi) an herbal ball compress.
- 90 [~~(6)~~] (9) "Practice of massage therapy" means:
- 91 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
- 92 for the purpose of devising a treatment plan to promote homeostasis;
- 93 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for
- 94 the purpose of:
- 95 (i) promoting the therapeutic health and well-being of a client;
- 96 (ii) enhancing the circulation of the blood and lymph;
- 97 (iii) relaxing and lengthening muscles;
- 98 (iv) relieving pain;
- 99 (v) restoring metabolic balance;
- 100 (vi) achieving homeostasis; or
- 101 (vii) other purposes;
- 102 (c) the use of the hands or a mechanical or electrical apparatus in connection with this
- 103 Subsection [~~(6)~~] (9);
- 104 (d) the use of rehabilitative procedures involving the soft tissue of the body;
- 105 (e) range of motion or movements without spinal adjustment as set forth in Section
- 106 [58-73-102](#);
- 107 (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and
- 108 cabinet baths;
- 109 (g) manual traction and stretching exercise;
- 110 (h) correction of muscular distortion by treatment of the soft tissues of the body;
- 111 (i) counseling, education, and other advisory services to reduce the incidence and
- 112 severity of physical disability, movement dysfunction, and pain;
- 113 (j) similar or related activities and modality techniques;
- 114 (k) the practice described in this Subsection [~~(6)~~] (9) on an animal to the extent
- 115 permitted by:
- 116 (i) Subsection [58-28-307](#)(12);
- 117 (ii) the provisions of this chapter; and
- 118 (iii) division rule; or

119 (l) providing, offering, or advertising a paid service using the term massage or a
120 derivative of the word massage, regardless of whether the service includes physical contact.

121 [~~(7)~~] (10) "Soft tissue" means the muscles and related connective tissue.

122 [~~(8)~~] (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

123 [~~(9)~~] (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502
124 and as may be further defined by division rule.

125 Section 2. Section 58-47b-301 is amended to read:

126 **58-47b-301. Licensure required.**

127 (1) An individual shall hold a license issued under this chapter in order to engage in the
128 practice of massage therapy or the practice of limited massage therapy, except as specifically
129 provided in Section 58-1-307 or 58-47b-304.

130 (2) An individual shall have a license in order to:

131 (a) represent [~~himself~~] oneself as a massage therapist [~~or~~], massage apprentice,
132 certified massage assistant, or massage assistant in-training;

133 (b) represent [~~himself~~] oneself as providing a service that is within the practice of
134 massage therapy or the practice of limited massage therapy or use the word massage or any
135 other word to describe [~~such~~] the services; or

136 (c) charge or receive a fee or any consideration for providing a service that is within the
137 practice of massage therapy or the practice of limited massage therapy.

138 Section 3. Section 58-47b-302 is amended to read:

139 **58-47b-302. License classifications -- Qualifications for licensure.**

140 (1) The division shall issue licenses under this chapter in the classifications of:

141 (a) massage therapist; [~~and~~]

142 (b) massage apprentice[~~;~~];

143 (c) certified massage assistant; and

144 (d) massage assistant in-training.

145 (2) Each applicant for licensure as a massage therapist shall:

146 (a) submit an application in a form prescribed by the division;

147 (b) pay a fee determined by the department under Section 63J-1-504;

148 (c) be 18 years [~~of age~~] old or older;

149 (d) have either:

150 (i) (A) graduated from a school of massage having a curriculum which meets standards
151 established by division rule made in collaboration with the board; or

152 (B) completed equivalent education and training in compliance with division rule; or

153 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
154 hours of supervised training over a minimum of 12 months and in accordance with standards
155 established by the division by rule made in collaboration with the board; and

156 (e) pass ~~[examinations]~~;

157 (i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing
158 Examination; or

159 (ii) any other examination established by rule by the division in collaboration with the
160 board.

161 (3) Each applicant for licensure as a massage apprentice shall:

162 (a) submit an application in a form prescribed by the division;

163 (b) pay a fee determined by the department under Section [63J-1-504](#);

164 (c) be 18 years ~~[of age]~~ old or older;

165 (d) provide satisfactory evidence to the division that the individual will practice as a
166 massage apprentice only under the direct supervision of a licensed massage therapist in good
167 standing and who has engaged in the lawful practice of massage therapy as a licensed massage
168 therapist for not less than 6,000 hours; and

169 (e) successfully complete an examination as required by division rule.

170 (4) Each applicant for licensure as a certified massage assistant shall:

171 (a) submit an application in a form prescribed by the division;

172 (b) pay a fee determined by the department in accordance with Section [63J-1-504](#);

173 (c) be 18 years old or older; and

174 (d) provide satisfactory evidence to the division that:

175 (i) the individual will practice as a certified massage assistant only under the indirect
176 supervision of an individual described in Subsections [58-47b-102\(3\)\(a\)](#) through (f); and

177 (ii) the applicant has completed at least 150 hours of education and training that meets
178 the requirements established by division rule made in accordance with Title 63G, Chapter 3,
179 Utah Administrative Rulemaking Act.

180 (5) (a) Each applicant for licensure as a massage assistant in-training shall:

181 (i) submit an application in a form prescribed by the division;
182 (ii) pay a fee determined by the department in accordance with Section [63J-1-504](#);
183 (iii) be 18 years old or older; and
184 (iv) provide satisfactory evidence to the division that the individual will practice as a
185 massage assistant in-training to satisfy the requirements of Subsection (4)(d)(ii) during a
186 training period of no more than six months only under the direct supervision of a massage
187 therapist in good standing who has engaged in the lawful practice of massage therapy for at
188 least 6,000 hours.

189 (b) After an individual licensed as a massage assistant in-training completes the
190 education and training described in Subsection (4)(d)(ii) during the individual's training period,
191 the division shall issue to the individual a license for a certified massage assistant.

192 (6) (a) A massage therapist may supervise at one time up to six individuals licensed as
193 a massage apprentice or massage assistant in-training.

194 (b) An individual described in Subsections [58-47b-102\(3\)\(a\)](#) through (f) may supervise
195 at one time up to six individuals licensed as a certified massage assistant.

196 ~~[(4)]~~ (7) (a) [Any] Each new massage therapist [or], massage apprentice, certified
197 massage assistant, or massage assistant in-training applicant shall submit fingerprint cards in a
198 form acceptable to the division at the time the license application is filed and shall consent to a
199 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal
200 Bureau of Investigation regarding the application.

201 (b) The division shall request the Department of Public Safety to complete a Federal
202 Bureau of Investigation criminal background check for each new massage therapist [or],
203 massage apprentice, certified massage assistant, or massage assistant in-training applicant
204 through the national criminal history system (NCIC) or any successor system.

205 (c) The cost of the background check and the fingerprinting shall be borne by the
206 applicant.

207 ~~[(5)]~~ (8) (a) [Any] A new massage therapist [or], massage apprentice, certified massage
208 assistant, or massage assistant in-training license issued under this section shall be conditional,
209 pending completion of the criminal background check. If the criminal background check
210 discloses the applicant has failed to accurately disclose a criminal history, the license shall be
211 immediately and automatically revoked.

212 (b) [~~Any~~] A person whose conditional license has been revoked under Subsection [~~(5)~~]
213 (8)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing
214 shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

215 [~~(6)~~] (9) An applicant who successfully completes a fingerprint background check
216 under Subsection [~~(4)~~] (7) may not be required by any other state or local government body to
217 submit to a second fingerprint background check as a condition of lawfully practicing massage
218 therapy or limited massage therapy in this state.

219 Section 4. Section **58-47b-303** is amended to read:

220 **58-47b-303. Term of license -- Expiration -- Renewal.**

221 (1) (a) [~~Each~~] Except as provided in Subsection (3), each license issued under this
222 chapter shall be issued in accordance with a two-year renewal cycle established by rule.

223 (b) A renewal period may be extended or shortened by as much as one year to maintain
224 established renewal cycles or to change an established renewal cycle.

225 (2) Each license automatically expires on the expiration date shown on the license
226 unless renewed by the licensee in accordance with Section **58-1-308**.

227 (3) Each license the division issues to a massage assistant in-training expires six
228 months after the day on which the division issues the massage assistant in-training license.

229 Section 5. Section **58-47b-304** is amended to read:

230 **58-47b-304. Exemptions from licensure.**

231 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
232 individuals may engage in the practice of massage therapy or the practice of limited massage
233 therapy as defined under this chapter, subject to the stated circumstances and limitations,
234 without being licensed, but may not represent themselves as a massage therapist [~~or~~], massage
235 apprentice, certified massage assistant, or massage assistant in-training:

236 (a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

237 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

238 (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a,
239 Nurse Midwife Practice Act;

240 (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

241 (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice
242 Act, while under the general supervision of a physical therapist;

- 243 (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic
244 Medical Practice Act;
- 245 (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
246 Act;
- 247 (h) a hospital staff member employed by a hospital, who practices massage as part of
248 the staff member's responsibilities;
- 249 (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;
- 250 (j) a student in training enrolled in a massage therapy school approved by the division;
- 251 (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician
252 Practice Act;
- 253 (l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy
254 Practice Act; and
- 255 (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational
256 Therapy Practice Act, while under the general supervision of an occupational therapist;
- 257 (m) an individual performing gratuitous massage; and
- 258 (n) an individual:
 - 259 (i) certified by or through, and in good standing with, an industry organization that is
260 recognized by the division and that represents a profession with established standards and
261 ethics:
 - 262 (A) who is certified to practice reflexology and whose practice is limited to the scope
263 of practice of reflexology;
 - 264 (B) who is certified to practice a type of zone therapy, including foot zone therapy, and
265 whose practice is limited to the scope of practice for which the individual is certified;
 - 266 (C) who is certified to practice ortho-bionomy and whose practice is limited to the
267 scope of practice of ortho-bionomy;
 - 268 (D) who is certified to practice bowerwork and whose practice is limited to the scope
269 of practice of bowerwork; or
 - 270 (E) who is certified to practice a type of brain integration and whose practice is limited
271 to the scope of practice for which the individual is certified;
 - 272 (ii) whose clients remain fully clothed from the shoulders to the knees; and
 - 273 (iii) whose clients do not receive gratuitous massage from the individual.

274 (2) This chapter may not be construed to authorize any individual licensed under this
275 chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

276 (3) This chapter may not be construed to:

277 (a) require insurance coverage or reimbursement for massage therapy or limited
278 massage therapy from third party payors; or

279 (b) prevent an insurance carrier from offering coverage for massage therapy or limited
280 massage therapy.

281 Section 6. Section **58-47b-305** is amended to read:

282 **58-47b-305. State and local jurisdiction.**

283 (1) (a) The division is the only agency authorized to license individuals to [~~practice~~]
284 engage in the practice of massage therapy or the practice of limited massage therapy within the
285 state or any of [~~its~~] the state's political subdivisions.

286 (b) This chapter does not prevent any political subdivision of the state from enacting:

287 (i) ordinances governing the operation of establishments offering massages; or

288 (ii) ordinances regulating the practice of massage therapy or the practice of limited
289 massage therapy, if the ordinances are not less stringent than this chapter.

290 (2) This chapter does not prohibit any political subdivision of the state from
291 prosecuting unlicensed individuals engaged in the practice of massage therapy or the practice
292 of limited massage therapy or from prosecuting licensed individuals who are engaged in
293 unlawful conduct.

294 Section 7. Section **58-47b-501** is amended to read:

295 **58-47b-501. Unlawful conduct.**

296 "Unlawful conduct" includes:

297 (1) practicing, engaging in, or attempting to practice or engage in the practice of
298 massage therapy without holding a current license as a massage therapist or a massage
299 apprentice under this chapter;

300 (2) advertising or representing [~~himself as practicing~~] oneself as engaging in the
301 practice of massage therapy when not licensed to do so; [~~and~~]

302 (3) practicing, engaging in, or attempting to practice or engage in the practice of
303 limited massage therapy without holding a current license as a certified massage assistant or
304 massage assistant in-training under this chapter;

305 (4) advertising or representing oneself as engaging in the practice of limited massage
306 therapy when not licensed to do so; and

307 [~~(3)~~] (5) massaging, touching, or applying any instrument or device by a licensee in the
308 course of practicing or engaging in the practice of massage therapy or the practice of limited
309 massage therapy to the:

310 (a) genitals;

311 (b) anus; or

312 (c) breasts of a female patron, except when a female patron requests breast massage, as
313 may be further defined by division rule, and signs a written consent form, which must also
314 include the signature of a parent or legal guardian if the patron is a minor, authorizing the
315 procedure and outlining the reason for it before the procedure is performed.

316 Section 8. Section **58-47b-502** is amended to read:

317 **58-47b-502. Unprofessional conduct.**

318 "Unprofessional conduct" includes the following and may be further defined by division
319 rule:

320 (1) maintaining, operating, or assisting in the establishment or operation of any place
321 of business for the purpose of performing the practice of massage therapy or the practice of
322 limited massage therapy without first obtaining a business license, if a license is required;

323 (2) failing to comply with any applicable ordinances relating to the regulation of
324 massage establishment;

325 (3) failing to comply with all applicable state and local health or sanitation codes;

326 (4) failing to properly supervise an apprentice, certified massage assistant, or massage
327 assistant in-training;

328 (5) failing to maintain mechanical or electrical equipment in a safe operating condition;

329 (6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or
330 water baths;

331 (7) prescribing or administering medicine or drugs;

332 (8) engaging in any act or practice in a professional capacity that is outside of the
333 practice of massage therapy or the practice of limited massage therapy; and

334 (9) engaging in any act or practice in a professional capacity for which the licensee is
335 not competent to perform through training or experience.