

Representative Candice B. Pierucci 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 massage assistant; and
 - a massage assistant in-training;
- ▶ establishes the qualifications and scope of practice for a 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 massage assistant;
- ▶ requires ~~H→ [a massage business that employs]~~ certain signage and disclosures when ~~←H~~ a massage assistant or massage assistant in-training ~~H→ [to display certain signage]~~ provides a massage service ~~←H~~ ; and
- ▶ makes technical and conforming changes.

3rd Sub. S.B. 180



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-47b-102**, as last amended by Laws of Utah 2012, Chapter 34

33 **58-47b-301**, as last amended by Laws of Utah 2013, Chapter 278

34 **58-47b-302**, as last amended by Laws of Utah 2020, Chapter 339

35 **58-47b-303**, as enacted by Laws of Utah 1996, Chapter 76

36 **58-47b-304**, as last amended by Laws of Utah 2021, Chapter 403

37 **58-47b-305**, as last amended by Laws of Utah 1998, Chapter 159

38 **58-47b-501**, as last amended by Laws of Utah 2018, Chapter 318

39 **58-47b-502**, as last amended by Laws of Utah 1998, Chapter 159

40 ENACTS:

41 **58-47b-306**, Utah Code Annotated 1953



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

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

45 **58-47b-102. Definitions.**

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

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

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

50 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
51 muscular system.

52 (4) "Massage apprentice" means an individual licensed under this chapter as a massage
53 apprentice to work under the direct supervision of a licensed massage therapist.

54 (5) "Massage assistant" means an individual licensed under this chapter as a massage
55 assistant to engage in the practice of limited massage therapy while working under the indirect
56 supervision of:

- 57 (a) a massage therapist who has:
- 58 (i) at least three years of experience as a licensee; and
- 59 (ii) engaged in the lawful practice of massage therapy for at least 3,000 hours;
- 60 (b) a physician licensed under Chapter 67, Utah Medical Practice Act;
- 61 (c) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
- 62 Practice Act;
- 63 (d) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
- 64 Act;
- 65 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
- 66 (f) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act.
- 67 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
- 68 massage assistant in-training to engage in the practice of limited massage therapy.
- 69 [~~(5)~~] (7) "Massage therapist" means an individual licensed under this chapter as a
- 70 massage therapist.
- 71 (8) "Practice of limited massage therapy" means:
- 72 (a) the systematic manual manipulation of the soft tissue of the body for the purpose
- 73 of:
- 74 (i) promoting the therapeutic health and well-being of a client;
- 75 (ii) enhancing the circulation of the blood and lymph;
- 76 (iii) relaxing and lengthening muscles;
- 77 (iv) relieving pain;
- 78 (v) restoring metabolic balance;
- 79 (vi) achieving homeostasis; or
- 80 (vii) other purposes;
- 81 (b) seated chair massage;
- 82 (c) body wraps;
- 83 (d) aromatherapy;
- 84 (e) reflexology; or
- 85 (f) in connection with an activity described in this Subsection (8) the use of:
- 86 (i) the hands;
- 87 (ii) a towel;

88 (iii) a stone;

89 (iv) a shell;

90 (v) a bamboo stick; or

91 (vi) an herbal ball compress.

92 ~~[(6)]~~ (9) "Practice of massage therapy" means:

93 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
94 for the purpose of devising a treatment plan to promote homeostasis;

95 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for
96 the purpose of:

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

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

99 (iii) relaxing and lengthening muscles;

100 (iv) relieving pain;

101 (v) restoring metabolic balance;

102 (vi) achieving homeostasis; or

103 (vii) other purposes;

104 (c) the use of the hands or a mechanical or electrical apparatus in connection with this
105 Subsection ~~[(6)]~~ (9);

106 (d) the use of rehabilitative procedures involving the soft tissue of the body;

107 (e) range of motion or movements without spinal adjustment as set forth in Section
108 [58-73-102](#);

109 (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and
110 cabinet baths;

111 (g) manual traction and stretching exercise;

112 (h) correction of muscular distortion by treatment of the soft tissues of the body;

113 (i) counseling, education, and other advisory services to reduce the incidence and
114 severity of physical disability, movement dysfunction, and pain;

115 (j) similar or related activities and modality techniques;

116 (k) the practice described in this Subsection ~~[(6)]~~ (9) on an animal to the extent
117 permitted by:

118 (i) Subsection [58-28-307](#)(12);

- 119 (ii) the provisions of this chapter; and
- 120 (iii) division rule; or
- 121 (l) providing, offering, or advertising a paid service using the term massage or a
- 122 derivative of the word massage, regardless of whether the service includes physical contact.

123 [~~7~~] (10) "Soft tissue" means the muscles and related connective tissue.

124 [~~8~~] (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

125 [~~9~~] (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502
126 and as may be further defined by division rule.

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

128 **58-47b-301. Licensure required.**

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

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

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

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

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

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

141 **58-47b-302. License classifications -- Qualifications for licensure.**

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

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

144 (b) massage apprentice[-];

145 (c) massage assistant; and

146 (d) massage assistant in-training.

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

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

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

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

151 (d) have either:

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

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

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

158 (e) pass [~~examinations~~]:

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

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

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

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

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

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

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

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

172 (4) ~~Ĥ→ (a) ←Ĥ~~ Each applicant for licensure as a massage assistant shall:

173 ~~Ĥ→ [(a)] (i) ←Ĥ~~ submit an application in a form prescribed by the division;

174 ~~Ĥ→ [(b)] (ii) ←Ĥ~~ pay a fee determined by the department in accordance with Section
174a [63J-1-504](#);

175 ~~Ĥ→ [(c)] (iii) ←Ĥ~~ be 18 years old or older; ~~Ĥ→ [and] ←Ĥ~~

176 ~~Ĥ→ [(d)] (iv) ←Ĥ~~ provide satisfactory evidence to the division that:

177 ~~Ĥ→ [(i)] (A) ←Ĥ~~ the individual will practice as a massage assistant only under the indirect
178 supervision of an individual described in Subsections [58-47b-102\(5\)\(a\)](#) through (f); and

179 ~~Ĥ→ [(ii)] (B) ←Ĥ~~ the applicant has completed ~~Ĥ→ [the following education and training~~
179a ~~that meets the~~

180 ~~requirements established]~~ education and training as required ~~←Ĥ~~ by division rule made in
180a accordance with Title 63G, Chapter 3, Utah

181 Administrative Rulemaking Act ~~Ĥ~~→ [z] ; and

181a (v) pass an examination as required by division rule made in accordance with Title 63G,

181b Chapter 3, Utah Administrative Rulemaking Act.

181c (b) The division shall ensure that the required education and training described in

181d Subsection (4)(a)(iv)(B) includes: ~~Ĥ~~

182 ~~Ĥ~~→ ~~[(A)]~~ (i) ~~Ĥ~~ at least 150 hours of education and training while ~~Ĥ~~→ :

182a (A) ~~Ĥ~~ enrolled in a massage school

183 ~~Ĥ~~→ using a ~~Ĥ~~ curriculum approved by the division ~~Ĥ~~→ ; ~~Ĥ~~ or ~~Ĥ~~→ [while] ~~Ĥ~~ under the

183a direct supervision of a massage

184 therapist in good standing who has engaged in the lawful practice of massage therapy for at

185 least 6,000 hours ~~Ĥ~~→ and in accordance with a curriculum approved by the division ~~Ĥ~~ ; and

186 ~~Ĥ~~→ ~~[(B)]~~ (ii) ~~Ĥ~~ at least 150 hours of education and training under the indirect supervision

186a of an

187 individual described in Subsections 58-47b-102(5)(a) through (f).

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

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

190 (ii) pay a fee determined by the department in accordance with Section 63J-1-504;

191 (iii) be 18 years old or older; and

192 (iv) provide satisfactory evidence to the division that the individual will practice as a

193 massage assistant in-training to satisfy the requirements of ~~Ĥ~~→ [~~Subsections (4)(d)(ii)(A) and (B)~~]

193a Subsection (4)(a)(iv)(B) ~~Ĥ~~

194 during a training period of no more than six months.

195 ~~Ĥ~~→ [~~(b) After an individual licensed as a massage assistant in-training completes the~~

196 ~~training described in Subsections (4)(d)(ii)(A) and (B) during the individual's training period;~~

197 ~~the division shall issue to the individual a license for a massage assistant.]~~

197a (b) The division shall issue to an individual licensed as a massage assistant in-training a

197b license for a massage assistant if:

197c (i) the individual completes the education and training described in Subsection

197d (4)(a)(iv)(B); and

197e (ii) passes the examination described in Subsection (4)(a)(v). ~~Ĥ~~

198 (6) (a) A massage therapist may supervise at one time up to six individuals licensed as

199 a massage apprentice or massage assistant in-training.

200 (b) An individual described in Subsections 58-47b-102(5)(a) through (f) may supervise

201 at one time up to six individuals licensed as a massage assistant.

202 [~~(4)~~] (7) (a) [~~Any~~] Each new massage therapist [~~or~~], massage apprentice, massage
203 assistant, or massage assistant in-training applicant shall submit fingerprint cards in a form
204 acceptable to the division at the time the license application is filed and shall consent to a
205 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal
206 Bureau of Investigation regarding the application.

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

211 (c) The cost of the background check and the fingerprinting shall be borne by the

212 applicant.

213 ~~[(5)]~~ (8) (a) ~~[Any]~~ A new massage therapist [or], massage apprentice, massage
 214 assistant, or massage assistant in-training license issued under this section shall be conditional,
 215 pending completion of the criminal background check. If the criminal background check
 216 discloses the applicant has failed to accurately disclose a criminal history, the license shall be
 217 immediately and automatically revoked.

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

221 ~~[(6)]~~ (9) An applicant who successfully completes a fingerprint background check
 222 under Subsection ~~[(4)]~~ (7) may not be required by any other state or local government body to
 223 submit to a second fingerprint background check as a condition of lawfully practicing massage
 224 therapy or limited massage therapy in this state.

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

226 **58-47b-303. Term of license -- Expiration -- Renewal.**

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

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

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

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

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

236 **58-47b-304. Exemptions from licensure.**

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

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

- 243 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;
- 244 (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a,
245 Nurse Midwife Practice Act;
- 246 (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- 247 (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice
248 Act, while under the general supervision of a physical therapist;
- 249 (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic
250 Medical Practice Act;
- 251 (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
252 Act;
- 253 (h) a hospital staff member employed by a hospital, who practices massage as part of
254 the staff member's responsibilities;
- 255 (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;
- 256 (j) a student in training enrolled in a massage therapy school approved by the division;
- 257 (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician
258 Practice Act;
- 259 (l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy
260 Practice Act; and
- 261 (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational
262 Therapy Practice Act, while under the general supervision of an occupational therapist;
- 263 (m) an individual performing gratuitous massage; and
- 264 (n) an individual:
 - 265 (i) certified by or through, and in good standing with, an industry organization that is
266 recognized by the division and that represents a profession with established standards and
267 ethics:
 - 268 (A) who is certified to practice reflexology and whose practice is limited to the scope
269 of practice of reflexology;
 - 270 (B) who is certified to practice a type of zone therapy, including foot zone therapy, and
271 whose practice is limited to the scope of practice for which the individual is certified;
 - 272 (C) who is certified to practice ortho-bionomy and whose practice is limited to the
273 scope of practice of ortho-bionomy;

274 (D) who is certified to practice bowerwork and whose practice is limited to the scope
275 of practice of bowerwork; or

276 (E) who is certified to practice a type of brain integration and whose practice is limited
277 to the scope of practice for which the individual is certified;

278 (ii) whose clients remain fully clothed from the shoulders to the knees; and

279 (iii) whose clients do not receive gratuitous massage from the individual.

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

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

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

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

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

288 **58-47b-305. State and local jurisdiction.**

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

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

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

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

296 (2) This chapter does not prohibit any political subdivision of the state from
297 prosecuting unlicensed individuals engaged in the practice of massage therapy or the practice
298 of limited massage therapy or from prosecuting licensed individuals who are engaged in
299 unlawful conduct.

300 Section 7. Section **58-47b-306** is enacted to read:

301 **58-47b-306. Required signage ~~H~~→ and disclosures ←~~H~~ .**

302 (1) As used in this section, "massage establishment" means an establishment in which
303 an individual lawfully engages in the practice of massage therapy.

304 (2) (a) An individual who lawfully engages in the practice of massage therapy in a

305 message establishment shall ensure that the message establishment prominently displays to the
306 public a sign described in Subsection (2)(b), if the individual supervises a massage assistant or
307 a massage assistant in-training engaging in the practice of limited massage therapy.

308 (b) A sign required under Subsection (2)(a) shall notify the public that certain massage
309 services offered at the message establishment are performed by a massage assistant or a
310 massage assistant in-training.

310a **H→ (3) (a) When an individual requests a massage service that will be performed by a massage**
310b **assistant or a massage assistant in-training, the licensee performing or supervising the massage**
310c **service shall ensure that the requesting individual is notified that the massage service will be**
310d **performed by a massage assistant or a massage assistant in-training.**

310e **(b) The licensee shall ensure that the requesting individual receives the disclosure described in**
310f **Subsection (3)(a) before the individual schedules or agrees to the massage service.** ←H

311 Section 8. Section **58-47b-501** is amended to read:

312 **58-47b-501. Unlawful conduct.**

313 "Unlawful conduct" includes:

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

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

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

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

324 [~~(3)~~] (5) massaging, touching, or applying any instrument or device by a licensee in the
325 course of practicing or engaging in the practice of massage therapy or the practice of limited
326 massage therapy to the:

327 (a) genitals;

328 (b) anus; or

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

333 Section 9. Section **58-47b-502** is amended to read:

334 **58-47b-502. Unprofessional conduct.**

335 "Unprofessional conduct" includes the following and may be further defined by division

336 rule:

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

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

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

343 (4) failing to properly supervise an apprentice, massage assistant, or massage assistant
344 in-training;

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

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

348 (7) prescribing or administering medicine or drugs;

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

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