

As Engrossed: 3/7/91, 3/27/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Gordon**

A BILL ACT 1217 OF 1991
SENATE BILL 683

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 17, CHAPTER 98 OF THE ARKANSAS CODE
9 OF 1987 ANNOTATED TO CHANGE THE NAME 'THERAPY TECHNOLOGY'
10 TO 'MASSAGE THERAPY'; TO INCREASE FEES CHARGED BY THE
11 BOARD OF MASSAGE THERAPY; TO CHANGE THE NUMBER OF HOURS OF
12 TRAINING REQUIRED TO BE LICENSED; AND FOR OTHER PURPOSES."

13

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15

16 SECTION 1. Title 17, Chapter 98 of the Arkansas Code of 1987 Annotated
17 is hereby amended to read as follows:

18

"17-98-101. Title.

19

This chapter may be referred to and cited as the 'Massage Therapy Act'.

20

21

17-98-102. Definitions.

22

As used in this chapter, unless the context otherwise requires:

23

(1) 'Massage therapy' means to engage in the practice of any of the

24

following procedures:

25

(A) All massage therapy techniques and procedures either by

26

on-hand or with mechanical device for the purpose of *body reducing or*

27

contouring;

28

(B) Use of all oils;

29

(C) Hot or cold packs;

30

(D) Hydrotherapy techniques;

31

(E) Hilotherapy;

32

(F) Electrotherapy;

33

(G) Total hand and foot care through reflexology;

34

(H) Any on-hand techniques and procedures not covered under

35

specific licensing laws of other boards;

36

(I) *Rolfing;*

17-98-103 (07/07)

1 (J) *Polarity therapy treatments;*

2 (K) *Loma body therapy treatments;*

3 (2) 'Board' means the Arkansas State Board of Massage Therapy;

4

5 (3) 'Massage therapist' means a person who has earned a diploma
6 from an accredited school of massage therapy, who has passed the Arkansas
7 State Board of Massage Therapy examination, and who has become licensed and
8 registered to practice any of the procedures in subdivision (1) of this
9 section;

10 (4) 'Master massage therapist' means a person who is a *massage*
11 *therapist, who has no less than four (4) years experience in the active*
12 *practice of massage therapy, and who is deemed by the board to be qualified to*
13 *teach and administer any of the activities listed in subdivision (1) of this*
14 *section;*

15 (5) 'Massage therapy instructor' means a *master massage therapist*
16 *who has successfully completed no less than three (3) continuing education*
17 *hours each year over a period of two (2) consecutive years in subjects which*
18 *have been previously approved by the board;*

19 (6) 'Massage therapy office or clinic' means a clinic or place
20 where there is one (1) or more of the named therapists as defined in the above
21 categories practicing massage therapy;

22 (7) 'Massage therapy school' means a registered and licensed
23 massage therapy clinic or place of business wherein massage therapy is taught
24 under the direction of a licensed and registered massage therapy instructor.

25

26 17-98-103. Penalties.

27 (a) Any person who shall violate any of the provisions of this chapter
28 shall be found guilty of a misdemeanor and upon conviction shall be punished
29 by imprisonment in the county jail for not more than six (6) months or by a
30 fine not exceeding fifteen hundred dollars (\$1500), or by both fine and
31 imprisonment, at the discretion of the court.

32 (b) It shall be the duty of the prosecuting attorney in the county
33 where violation occurs, upon request by the board, to initiate proper legal
34 proceedings in a court of competent jurisdiction to enforce the provisions of
35 this chapter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

17-98-201. Members.

(a) The Arkansas State Board of Massage Therapy shall consist of five (5) members, who shall be appointed by the Governor for a term of three (3) years.

(1) Three (3) members shall be actively engaged in the practice of massage therapy.

(2) One (1) member, to represent the elderly, shall be sixty (60) years of age or older and shall not be engaged in or retired from the practice of massage therapy. He or she shall be appointed from the state at large, subject to confirmation by the Senate. This member shall be a full voting member but shall not participate in the grading of examinations.

(3) One (1) member, to represent the public, shall not be engaged in or retired from the practice of massage therapy. He or she shall be appointed from the state at large, subject to confirmation by the Senate. This member shall be a full voting member but shall not participate in the grading of examinations.

(b) The Governor may remove members of the board from office according to §25-16-804. The Governor shall fill any vacancy caused by removal of any member of the board, by the member's resignation or death, or upon the expiration of the member's term.

(c)(1) No member of the board except the secretary-treasurer, who shall receive a salary of no less than three hundred dollars (\$300) per month or in accordance with the Department of Finance and Administration guidelines, shall be paid or receive a regular salary, but members shall be paid and receive a fee of no less than *forty-five dollars (\$45.00)* per day for each day actually engaged in attending board meetings or performing other official duties.

(2) All board members shall receive reimbursement for all reasonable and necessary travel at the rate approved for state employees. Lodging and other expenses incurred in the performance of their official duties will also be paid on the approved scale for state employees.

17-98-202. Officers and employees.

(a) The board will meet at some convenient place within the state and shall elect a president, vice-president, and secretary-treasurer

1 from their own members. The secretary-treasurer shall furnish evidence of a
2 bond in the sum of one thousand dollars (\$1,000) for the faithful discharge of
3 his or her duties.

4 (b) The board is authorized to employ regular or special counsel,
5 inspectors, clerks, secretaries, and other personnel as it may deem necessary
6 to carry out the provisions of this chapter. At no time shall the counsel,
7 inspectors, clerks, secretaries, and other personnel exceed ten (10)
8 employees, and no employee of the board shall be related by blood or marriage
9 to any member of the board.

10

11 17-98-203. Powers and duties.

12 (a) The board is empowered to promulgate and enforce reasonable rules
13 and regulations for purposes of carrying out the provisions of this chapter.

14 (b) It shall also be the duty of the board from time to time to examine
15 and inspect, or cause to be examined or inspected, all massage therapy
16 offices, clinics, or schools operated in this state. For this purpose, the
17 board and its agents and employees shall have and they are given authority to
18 enter and inspect any such office, clinic, or school at any time during the
19 time when the business is open for the transaction of business.

20 (c) The board shall hold at least one (1) examination each year and may
21 hold other examinations from time to time at such place or places as the board
22 may designate.

23

24 17-98-204. Records.

25 (a) The secretary-treasurer of the board shall keep a record book in
26 which shall be entered the names and addresses of all persons to whom
27 certificates have been granted under this chapter, the certificate number and
28 the date of granting such certificates and renewals thereof, and other matters
29 of record.

30 (b) The books so provided and kept shall be deemed and considered a
31 book of records. A transcript of any record therein or a certificate number
32 or date of granting such certificate to a person charged with a violation of
33 any of the provisions of this chapter shall be admitted as evidence in any of
34 the courts of this state if certified under the hand of the secretary-
35 treasurer.

1 (c) The original books, records, and papers of the board shall be kept
2 at the offices of the secretary-treasurer of the board.

3 (d) Copies of records may be furnished to any person requesting them
4 upon payment of such copying fee as the board may require. The fee shall
5 belong to the secretary-treasurer.

6

7 17-98-205. Disposition of funds.

8 (a) All moneys received by the board under this chapter shall be paid
9 to the secretary-treasurer who shall deposit the funds in accordance with the
10 laws of the State of Arkansas and regulations of the Department of Finance and
11 Administration.

12 (b) All salaries and expenses of the board shall be paid from cash
13 funds created by the various fees charged by the board under the provisions of
14 this chapter.

15

16 17-98-301. Registration required - Exemptions.

17 (a) It shall be unlawful:

18 (1) For any person to engage in the practice or attempt to
19 practice massage therapy as defined in this chapter, with or without charge,
20 without a certificate of registration issued by the board;

21 (2) For any person to operate or conduct any massage therapy
22 office or clinic which does not conform to the sanitary regulations contained
23 in §17-98-302 or which may be adopted by the board;

24 (3) To employ any person to practice or instruct under this chapter who
25 does not hold a certificate of registration;

26 (4) For any person to operate a massage therapy school or a
27 massage therapy office or clinic without first being registered under the
28 provisions of this chapter as operating and maintaining a bona fide and
29 licensed school, office, or clinic.

30 (b) Physician's trained assistants, licensed nurses, and persons
31 authorized by the laws of this state to practice medicine, osteopathy,
32 chiropractic, podiatry, or physical therapy are exempt from this chapter.

33

34 17-98-302. Sanitary requirements.

35 (a) It shall be unlawful for any person, school, clinic, or office to

1 be certified under the provisions of this chapter unless the following
2 requirements are met and practiced:

- 3 (1) Continuous hot and cold running water must be provided;
- 4 (2) Bathroom accommodations must be provided;
- 5 (3) A towel or sheet that has been used by one patient may not be
6 used upon another person unless the towel or sheet has been relaundered;
- 7 (4) Anyone who has any infectious, contagious, or communicable
8 disease must not be employed. Any employee with such a disease must be
9 immediately relieved from duty;
- 10 (5) An office, school, or clinic must be equipped with a *massage*
11 *table or tables, to measure twenty-five inches to thirty-one inches (25"-31")*
12 *wide, twenty-four to twenty-seven inches (24"-27") high, and sixty inches to*
13 *seventy-two inches (60"-72") long, and equipped with such other minimal*
14 *equipment as the board may require determined upon the type of practice;*
- 15 (6) Cabinet baths must not be given unless the school, clinic, or
16 office is equipped with shower baths;
- 17 (7) An office, clinic, or school must comply with all
18 requirements of the Department of Health.

19 (b) Failure to comply with any of the requirements as set forth by this
20 chapter will be grounds for suspension or revocation of license.

21

22 17-98-303. Massage therapist.

23 (a) In order to be registered as a massage therapist, the person
24 seeking registration shall:

- 25 (1) Furnish to the board satisfactory proof that he or she is
26 eighteen (18) years of age or older, a bona fide citizen of the United States,
27 and of good moral character and temperate habits; and
- 28 (2) Make oath that he or she has not been convicted of any
29 offense that would constitute a felony, either in this state or the United
30 States; and
- 31 (3) Present a high school diploma, GED or credentials issued by a
32 recognized accredited massage therapy school or like institution with no less
33 than *five hundred (500)* in classroom hours; and
- 34 (4) Pass a demonstrative, oral, and written examination conducted
35 by and under the supervision of the board in the art of massage therapy as

1 defined in §17-98-102(1);

2 (5) *Furnish a certificate of physical examination signed by a*
3 *regularly practicing physician, declaring such person to be free from any*
4 *contagious, infectious, or communicable disease. Such examination must have*
5 *taken place, or a certificate must have been issued, within the preceding*
6 *thirty (30) days; and*

7 (6) *Pay the fees specified, which shall accompany the application*
8 *to the secretary-treasurer of the board.*

9 (b)(1) Fees are as follows:

10 (A) Registration fee \$75.00

11 (B) Annual renewal fee 25.00

12 (C) Examination fee or reexamination fee 25.00

13 (2) Should reexamination be necessary, the registration fee of
14 seventy-five dollars (\$75.00) will be held in escrow until after the
15 reexamination is taken. Should the reexamination qualifications not be met,
16 the board will refund the seventy-five dollars (\$75.00) but not the
17 examination and reexamination fees.

18 (c) Any person who attempts to procure or does procure a license in
19 violation of the provisions of this section shall be subject to the penalties
20 provided for in §17-98-103.

21

22 17-98-304. Master massage therapist .

23 (a) Any person who meets the requirements as set forth in §17-98-303
24 who submits evidence satisfactory to the board that he or she has been engaged
25 in the active practice of massage therapy with a total of five hundred (500)
26 in classroom hours approved by the board shall be eligible for examination as
27 a master therapy technician. This examination will be prescribed by the
28 board.

29 (b) Fees are as follows:

30 (1) Registration fee \$75.00

31 (2) Annual renewal fee 30.00

32 (3) Examination fee or reexamination fee 30.00

33

34 17-98-305. Massage therapy instructor.

35 (a) Any master massage therapist who shall furnish satisfactory

1 evidence to the board that he or she has successfully completed a minimum of
2 seven hundred and fifty (750) hours of in classroom hours and no less than
3 four (4) years of active practice, upon taking an examination based upon
4 subjects prescribed by the board and the successful passing of the
5 examination, shall be entitled to be registered as a massage therapy
6 instructor.

7 (b) Fees are as follows:

- 8 (1) Registration fee \$75.00
- 9 (2) Annual renewal fee 30.00
- 10 (3) Examination fee or reexamination fee 30.00

11
12 17-98-306. Massage therapy school.

13 (a) No person or persons may establish, operate, or maintain a massage
14 therapy school without first having obtained a certificate of registration by
15 the board.

16 (b) No school shall be approved by the board or granted a certificate
17 of registration until such appropriate application and inspection forms as
18 prescribed by the board have been completed and approved and the registration
19 fee has been paid.

20 (c) (1) Inspection of the school premises will be made by a board member
21 and required forms completed and returned to the secretary-treasurer of the
22 board with approval or recommendations.

23 (2) Should the school facilities not pass the first inspection
24 and, after recommendations, are corrected, a second inspection will be made
25 within thirty (30) days to determine the school's eligibility.

26 (d) The school shall be required to furnish such additional information
27 and documents as may be required by the board.

28 (e) The board may certify the school and provide for registration
29 thereof, provided the school has a curriculum consisting of not less than *five*
30 *hundred (500)* hours of in classroom instruction over a term of not less than
31 four (4) months consisting of the following subjects:

- 32 (1) *One hundred (100) hours of physiology;*
- 33 (2) *One hundred (100) hours of anatomy;*
- 34 (3) *Two hundred (200) hours of technique;*
- 35 (4) *Twenty-five (25) hours of hydrotherapy-electrotherapy-*

1 *hiloterapy-reflexology;*

2 (5) *Twenty-five (25) hours of hygiene and practical*
3 *demonstration;*

4 (6) *Twenty-five (25) hours of health service management; and*

5 (7) *Twenty-five (25) hours of various related subjects as*
6 *determined by the board.*

7 (f) (1) The fee for establishing a school is seven hundred and fifty
8 dollars (\$750).

9 (2) The inspection and examination fee is one hundred dollars
10 (\$100).

11 (3) The annual renewal and inspection fee is one hundred dollars
12 (\$100).

13

14 17-98-307. *Massage therapy office or clinic.*

15 (a) No person may establish, maintain, or operate a massage therapy
16 office or clinic until such office or clinic has obtained a certificate of
17 registration from the board.

18 (b) Upon application an office or clinic may be certified upon
19 presenting evidence satisfactory to the board that the office or clinic
20 complies with the provisions of this chapter and the rules and regulations
21 promulgated thereunder.

22 (c) Fees are as follows:

- 23 (1) Certificate of registration and inspection fee . \$30.00
- 24 (2) Annual renewal fee 25.00

25 17-98-308. *Reciprocity.*

26 (a) Any person who has been licensed to practice anything required to
27 be licensed under this chapter in any other state or territory which has or
28 maintains a standard of practice which is substantially the same as that
29 maintained in this state may be granted a license to practice in this state
30 without being required to take an examination if such person:

31 (1) Shall submit to the board a duly attested certificate from
32 the examining board of the state or territory in which he or she is
33 registered;

34 (2) Is a person of good moral character and of professional
35 attainments; and

1 (3) Pays the appropriate fee, according to his or her
2 qualifications and practice level.

3 (b) The board may have the power to enter into reciprocal relations
4 with other states and territories whose requirements are substantially the
5 same as those provided in this chapter.

6
7 17-98-309. Renewal - Inactive list.

8 (a) Each certificate shall be valid for a period of one (1) year and
9 shall expire on June 30 of each year, whereupon a renewal certificate may be
10 issued upon payment of the fee prescribed. Each renewal application shall be
11 accompanied by proof of no less than three (3) in classroom hours of
12 continuing education in classes which have been approved by the board .

13 (b) Those who wish to put their active registration on the inactive
14 list, remaining there for a period of not to exceed three (3) years before
15 returning to active practice, may do so without reexamination. After three
16 (3) years, those who return to active practice will be reexamined at the fee
17 prescribed in this chapter according to the certification held at the time
18 they are placed on the inactive list.

19 (c) The fee for placement on the inactive list is ten dollars (\$10.00).
20

21 17-98-310. Display of certificate.

22 Each certificate shall be conspicuously displayed in the place where the
23 certificate holder engages in the practice of massage therapy, the instruction
24 of massage therapy, or in the operation of a school, clinic, or office.

25
26 17-98-311. Revocation, suspension, or denial.

27 (a) The board may deny, suspend, or revoke a certificate of
28 registration upon any one of the following grounds:

29 (1) Conviction of a felony, as certified by the court of
30 conviction;

31 (2) Malpractice or gross incompetency;

32 (3) The use in advertisements of untruthful or improbable
33 statements or flamboyant, exaggerated, or extravagant claims concerning the
34 licensee's professional excellence or abilities;

35 (4) Habitual drunkenness or habitual use of any habit-forming

- 1 drugs;
- 2 (5) Serving, or having a permit to serve, alcoholic beverages at
- 3 the office, clinic, or school;
- 4 (6) Immoral or unprofessional conduct;
- 5 (7) Failure to comply with any valid regulation or order of the
- 6 board;
- 7 (8) Invasion of the field of practice of any profession for which
- 8 a license is required, or the diagnosis or treatment of ailments, disease, or
- 9 injuries of human beings;
- 10 (9) Failure of any licensee to comply with the provisions of this
- 11 chapter;
- 12 (10) Failure to have licensed personnel to perform massage
- 13 therapy techniques in his or her office, clinic, or school;
- 14 (11) Failure of any licensee to renew his or her license or
- 15 licenses.

16 (b)(1) Charges may be preferred by any person, or the board on its own
 17 motion may direct the secretary-treasurer of the board to prefer charges.

18 (2) Any accusation of any of the offenses enumerated in this
 19 section may be filed with the secretary-treasurer of the board. The
 20 accusations shall be in writing, signed by the accuser, and verified under
 21 oath.

22 (c) In denying, suspending, or revoking any certificate of
 23 registration, the board shall afford any party review as provided for in the
 24 Arkansas Administrative Procedure Act, §25-15-201 et seq., and as otherwise
 25 provided by the rules and regulations of the board.

26
 27 17-98-312. Fees.

28 All registration fees shall be paid in accordance with the provisions of
 29 this chapter and all other laws and regulations of this state."

30
 31 SECTION 2. All provisions of this act of a general and permanent nature
 32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 33 Revision Commission shall incorporate the same in the Code.

34
 35 SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

5

6 SECTION 4. All laws and parts of laws in conflict with this act are
7 hereby repealed.

8

9

/s/Gordon

10

11

APPROVED: 4-10-91

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26