

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

A Bill

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

22 17-98-102. Definitions.

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

24 (1) 'Massage therapy' means to engage in the practice of any of the
25 following procedures:

26 (A) All massage therapy techniques and procedures either by
27 on-hand or with mechanical device for the purpose of *body reducing or*
28 *contouring*;

29 (B) Use of all oils;

30 (C) Hot or cold packs;

31 (D) Hydrotherapy techniques;

32 (E) Hilotherapy;

33 (F) Electrotherapy;

34 (G) Total hand and foot care through reflexology;

35 (H) Any on-hand techniques and procedures not covered under
specific licensing laws of other boards;

17-98-103 (07/07)

- 1 (I) *Rolfing*;
- 2 (J) *Polarity therapy treatments*;
- 3 (K) *Loma body therapy treatments*;

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

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

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

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

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

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

26

27 17-98-103. Penalties.

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

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

1 this chapter.

2

3 17-98-201. Members.

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

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

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

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

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

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

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

33

34 17-98-202. Officers and employees.

35 (a) The board will meet at some convenient place within the state and

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

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

11

12 17-98-203. Powers and duties.

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

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

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

24

25 17-98-204. Records.

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

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

1 treasurer.

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

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

7

8 17-98-205. Disposition of funds.

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

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

16

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

18 (a) It shall be unlawful:

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

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

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

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

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

34

35 17-98-302. Sanitary requirements.

1 (a) It shall be unlawful for any person, school, clinic, or office to
2 be certified under the provisions of this chapter unless the following
3 requirements are met and practiced:

4 (1) Continuous hot and cold running water must be provided;

5 (2) Bathroom accommodations must be provided;

6 (3) A towel or sheet that has been used by one patient may not be
7 used upon another person unless the towel or sheet has been relaundered;

8 (4) Anyone who has any infectious, contagious, or communicable
9 disease must not be employed. Any employee with such a disease must be
10 immediately relieved from duty;

11 (5) An office, school, or clinic must be equipped with a *massage*
12 *table or tables, to measure twenty-five inches to thirty-one inches (25"-31")*
13 *wide, twenty-four to twenty-seven inches (24"-27") high, and sixty inches to*
14 *seventy-two inches (60"-72") long, and equipped with such other minimal*
15 *equipment as the board may require determined upon the type of practice;*

16 (6) Cabinet baths must not be given unless the school, clinic, or
17 office is equipped with shower baths;

18 (7) An office, clinic, or school must comply with all
19 requirements of the Department of Health.

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

22

23 17-98-303. Massage therapist.

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

26 (1) Furnish to the board satisfactory proof that he or she is
27 eighteen (18) years of age or older, a bona fide citizen of the United States,
28 and of good moral character and temperate habits; and

29 (2) Make oath that he or she has not been convicted of any
30 offense that would constitute a felony, either in this state or the United
31 States; and

32 (3) Present a high school diploma, GED or credentials issued by a
33 recognized accredited massage therapy school or like institution with no less
34 than *five hundred (500)* in classroom hours; and

35 (4) Pass a demonstrative, oral, and written examination conducted

1 by and under the supervision of the board in the art of massage therapy as
2 defined in §17-98-102(1);

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

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

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

11 (A) Registration fee \$75.00

12 (B) Annual renewal fee 25.00

13 (C) Examination fee or reexamination fee 25.00

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

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

22

23 17-98-304. Master massage therapist .

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

30 (b) Fees are as follows:

31 (1) Registration fee \$75.00

32 (2) Annual renewal fee 30.00

33 (3) Examination fee or reexamination fee 30.00

34

35 17-98-305. Massage therapy instructor.

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

8 (b) Fees are as follows:

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

12

13 17-98-306. Massage therapy school.

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

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

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

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

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

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

- 33 (1) *One hundred (100) hours of physiology;*
- 34 (2) *One hundred (100) hours of anatomy;*
- 35 (3) *Two hundred (200) hours of technique;*

1 (4) Twenty-five (25) hours of hydrotherapy-electrotherapy-
2 hilototherapy-reflexology;

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

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

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

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

10 (2) The inspection and examination fee is one hundred dollars
11 (\$100).

12 (3) The annual renewal and inspection fee is one hundred dollars
13 (\$100).

14

15 17-98-307. Massage therapy office or clinic.

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

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

23 (c) Fees are as follows:

24 (1) Certificate of registration and inspection fee . \$30.00

25 (2) Annual renewal fee 25.00

26 17-98-308. Reciprocity.

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

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

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

1 attainments; and

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

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

7

8 17-98-309. Renewal - Inactive list.

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

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

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

21

22 17-98-310. Display of certificate.

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

26

27 17-98-311. Revocation, suspension, or denial.

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

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

32 (2) Malpractice or gross incompetency;

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

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

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

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

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

27

28 17-98-312. Fees.

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

31

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

35

