

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1044

4 **By: Representative Jacqueline Roberts**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE MESSAGE THERAPY
9 ACT; AND FOR OTHER PURPOSES."

10

11

Subtitle

12 "TO AMEND VARIOUS SECTIONS OF THE MESSAGE THERAPY ACT."

13

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

15

16 SECTION 1. Arkansas Code 17-98-102 is amended to read as follows:

17 "17-98-102. Definitions.

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

19 (1) Message therapy means to engage in the practice of any of the
20 following procedures:

21 (A) All Swedish massage therapy techniques and procedures either by
22 hands-on or with mechanical devices;

23 (B) Therapeutic application of all oils, lotions, and powders;

24 (C) Hot or cold packs;

25 (D) Hydrotherapy techniques;

26 (E) Heliotherapy;

27 (F) Electrotherapy;

28 (G) Reflexology;

29 (H) Any hands-on bodywork techniques and procedures not covered under
30 specific licensing laws of other boards;

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

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

1 (4) Master massage therapist means a person who is a massage
2 therapist, with no less than four (4) years experience in the practice of
3 massage therapy and has completed no less than six (6) continuing education
4 hours in the past two (2) years, and who is deemed by the board to be
5 qualified to assist under the direction of a massage therapy instructor
6 pursuant to the regulations promulgated by the board;

7 (5) Massage therapy instructor means a person who has been a massage
8 therapist for no less than six (6) years and who has completed at least nine
9 (9) continuing education hours in three (3) years pursuant to regulations
10 promulgated by the board and who is deemed by the board to be qualified to
11 teach and administer any of the activities listed in subdivision (1) of this
12 section;

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

16 (7) Massage therapy school means a registered and licensed place of
17 business wherein massage therapy is taught under the direction of a licensed
18 and registered massage therapy instructor."

19

20 SECTION 2. Arkansas Code 17-98-201 is amended to read as follows:

21 "17-98-201. Members.

22 (a) The Arkansas State Board of Massage Therapy shall consist of seven
23 (7) members, who shall be appointed by the Governor for a term of three (3)
24 years.

25 (1) Four (4) members shall be licensed to practice massage therapy in
26 this state.

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

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

1 examinations.

2 (4) One (1) member, to represent the medical field, shall be a full
3 voting member but shall not participate in the grading of examinations, and
4 shall be a person exempted from the provisions of this law as listed in §17-
5 98-301(b).

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

10 (c)(1) No member of the board except the secretary-treasurer, who shall
11 receive a salary of no more than six hundred dollars (\$600) per month or in
12 accordance with the Department of Finance and Administration guidelines, shall
13 be paid or receive a regular salary, but members shall be paid and receive a
14 fee of no less than fifty-five dollars (\$55.00) per day per diem for each day
15 actually engaged in attending board meetings or performing other official
16 duties.

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

21

22 SECTION 3. Arkansas Code 17-98-203 is amended to read as follows:

23 "17-98-203. Powers and duties.

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

26 (b) It shall also be the duty of the board to examine and inspect, or
27 cause to be examined or inspected, all massage therapy schools operated in
28 this state. The board and its agents and employees shall have and they are
29 given authority to enter and inspect any such massage therapy office, clinic,
30 or school at any time during the time when the business is open for the
31 transaction of business.

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

35

1 SECTION 4. Arkansas Code 17-98-301 is amended to read as follows:

2 "17-98-301. Registration required - Exemptions.

3 (a) It shall be unlawful:

4 (1) For any person to engage in the practice or attempt to practice
5 massage therapy as defined in this chapter, with or without charge, *with the*
6 *exception of individuals giving massage therapy to members of his or her own*
7 *family*, without a certificate of registration issued by the board;

8 (2) For any person to operate or conduct any massage therapy office or
9 clinic which does not conform to the sanitary regulations contained in
10 §17-98-302, state and local ordinances, or those which may be adopted by the
11 board;

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

14 (4) For any person to operate a massage therapy school or a massage
15 therapy office or clinic without first being registered under the provisions
16 of this chapter.

17 (b) *Physicians trained assistants, licensed nurses and persons*
18 *authorized by the laws of this state to practice medicine, osteopathy,*
19 *chiropractic, podiatry, or physical therapy are exempt from this chapter."*

20

21 SECTION 5. Arkansas Code 17-98-302 is amended to read as follows:

22 "17-98-302. Sanitary requirements.

23 (a) It shall be unlawful for any person, school, clinic, or office to
24 be registered under the provisions of this chapter unless the following
25 requirements are met and practiced:

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

27 (2) Bathroom accommodations must be provided;

28 (3) A towel or sheet that has been used by one (1) *client* may not be
29 used upon another person unless the towel or sheet has been relaundered;

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

33 (5) An office, school, or clinic must be equipped with a massage table
34 or tables, to measure twenty-five inches to thirty-one inches (25"-31") wide,
35 twenty-four inches to twenty-seven inches (24"-27") high, and sixty inches to

1 seventy-two inches (60"-72") long, or equipped with such minimal equipment as
2 the board may require determined upon the type of practice;

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

5 (7) An office, clinic, or school must comply with all requirements of
6 the Department of Health, city ordinances and state laws.

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

9

10 SECTION 6. Arkansas Code 17-98-303 is amended to read as follows:

11 "17-98-303. Massage therapist.

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

14 (1) Furnish to the board satisfactory proof that he or she is eighteen
15 (18) years of age or older, and of good moral character;

16 (2) Make oath that he or she has not been convicted of any offense that
17 would constitute a felony, either in this state or the United States and
18 submit signed authorization to investigate and have information released to
19 the board;

20 (3) Present a high school diploma, graduate equivalency diploma, or
21 college transcript and credentials issued by a recognized accredited massage
22 therapy school or like institution with no less than five hundred (500) in
23 classroom hours;

24 (4) Pass a demonstrative and written examination conducted by and under
25 the supervision of the board in the art of massage therapy as defined in
26 §17-98-102(1);

27 (5) Furnish a certificate of physical examination signed by a regularly
28 practicing physician, declaring such person to be free from any contagious,
29 infectious, or communicable disease. Such examination must have taken place,
30 or a certificate must have been issued, within the preceding six (6) months;
31 and

32 (6) Pay the fees specified, which shall accompany the application to
33 the secretary-treasurer of the board.

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

35 (A) Registration fee\$75.00

1 (B) Annual renewal fee.....30.00

2 (C) Examination fee or reexamination fee25.00

3 (2) Should reexamination be necessary, the registration fee of
4 seventy-five dollars (\$75.00) will be held until after the reexamination is
5 taken. Should the reexamination qualifications not be met, the board will
6 refund the seventy-five dollars (\$75.00) but not the examination and
7 reexamination fees.

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

11

12 SECTION 7. Arkansas Code 17-98-304 is amended to read as follows:

13 "17-98-304. Master massage therapist.

14 (a) Any person who meets the requirements as set forth in §17-98-303
15 who submits evidence satisfactory to the board that he or she has been engaged
16 in the practice of massage therapy with a total of five hundred (500) in
17 classroom hours approved by the board *and meets the requirements stated in*
18 *§17-98-102(4)* shall be eligible to upgrade as a master massage therapist.

19 (b) Fees are as follows:

20 (1) Registration fee\$75.00

21 (2) Annual renewal fee40.00"

22

23 SECTION 8. Arkansas Code 17-98-305 is amended to read as follows:

24 "17-98-305. Massage therapy instructor.

25 (a) Any massage therapist who meets the requirements as set forth in
26 §17-98-303 who submits satisfactory evidence to the board that he or she has
27 successfully completed a minimum of seven hundred fifty (750) hours of
28 in-classroom hours and no less than six (6) years of practice *and meets the*
29 *requirements stated in §17-98-102(5)*, shall be entitled to be registered as a
30 massage therapy instructor.

31 (b) Fees are as follows:

32 (1) Registration fee\$75.00

33 (2) Annual renewal fee45.00"

34

35 SECTION 9. Arkansas Code 17-98-306(e) & (f) are amended to read as

1 follows:

2 "(e) The board may certify the school and provide for registration
3 thereof, provided the school follows a curriculum approved by the board
4 consisting of not less than five hundred (500) hours of in-classroom
5 instruction over a term of not less than four (4) months consisting of the
6 following subjects:

7 (1) Two hundred (200) hours of anatomy and physiology;

8 (2) Two hundred (200) hours of technique;

9 (3) Twenty-five (25) hours of hydrotherapy, electrotherapy,
10 heliotherapy;

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

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

13 (6) Twenty-five (25) hours of *reflexology* or various related subjects
14 as determined by the board.

15 (f) (1) The fee for establishing a school is seven hundred fifty dollars
16 (\$750).

17 (2) The inspection fee is one hundred dollars (\$100).

18 (3) The annual renewal and inspection fee is one hundred dollars
19 (\$100)."

20

21 SECTION 10. Arkansas Code 17-98-307 is amended to read as follows:

22 "17-98-307. Massage therapy office or clinic.

23 (a) No person may establish, maintain, or operate a massage therapy
24 office or clinic until such office or clinic has been registered with the
25 board.

26 (b) An office or clinic may be registered upon presenting evidence
27 satisfactory to the board that the office or clinic complies with the
28 provisions of this chapter and the rules and regulations promulgated
29 thereunder."

30

31 SECTION 11. Arkansas Code 17-98-308 is amended to read as follows:

32 "17-98-308. Reciprocity.

33 (a) Any person who has been licensed to practice anything required to
34 be licensed under this chapter in any other state or territory which has or
35 maintains a standard of practice which is substantially the same as that

1 maintained in this state may *with the discretion of this board* be granted a
2 license to practice in this state without being required to take an
3 examination if such person:

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

6 (2) Is a person of good moral character and of professional
7 attainments; and

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

10 (b) The board may have the power to enter into reciprocal relations
11 with other states and territories whose requirements are substantially the
12 same as those provided in this chapter."
13

14 SECTION 12. Arkansas Code 17-98-309 is amended to read as follows:

15 "17-19-309. *Renewals.*

16 (a) Each certificate shall be valid for a period of one (1) year and
17 shall expire on June 30 of each year, whereupon a renewal certificate may be
18 issued upon payment of the fee prescribed. *Each renewal shall be accompanied*
19 *by proof of no less than three (3) in-classroom hours of continuing education*
20 *which has been approved by the board.*

21 (b) *Inactive List.* (1) *Those who wish to put their active*
22 *registration on the inactive list, remaining there for a period not to exceed*
23 *three (3) years before returning to active practice, may do so without*
24 *reexamination. After three (3) years, those who return to active practice*
25 *will be reexamined at the fee prescribed in this chapter according to the*
26 *certification held at the time they are placed on the inactive list.*

27 (2) The fee for placement on the inactive list is ten dollars (\$10.00)
28 each year."
29

30 SECTION 13. Arkansas Code 17-98-310 is amended to read as follows:

31 "17-98-310. *Display of certificate.*

32 Each certificate shall be conspicuously displayed in the place where the
33 certificate holder engages in the practice of massage therapy, the instruction
34 of massage therapy, or in the operation of a school, clinic, or office. A
35 duplicate certificate may be obtained for a fee of five dollars (\$5.00)."

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SECTION 14. Arkansas Code 17-98-311(a) is amended to read as follows:

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

- (1) Conviction of a felony, as certified by the court of conviction;
- (2) Malpractice or gross incompetency;
- (3) The use in advertisements of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims concerning the licensee's professional excellence or abilities;
- (4) Habitual drunkenness or habitual use of any illegal drugs;
- (5) Serving, or having a permit to serve, alcoholic beverages at the office, clinic, or school;
- (6) Immoral or unprofessional conduct;
- (7) Failure to comply with any valid regulation or order of the board;
- (8) Invasion of the field of practice of any profession for which a license is required, or the diagnosis of ailments, disease, or injuries of human beings;
- (9) Failure of any licensee to comply with the provisions of this chapter;
- (10) Failure to have licensed personnel to perform massage therapy techniques in his or her office, clinic, or school;
- (11) Failure of any licensee to renew his or her license or licenses."

SECTION 15. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 17. All laws and parts of laws in conflict with this act are hereby repealed.

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/s/Jacqueline Roberts