

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/6/09 H3/17/09

# A Bill

HOUSE BILL 1162

5 By: Representatives Pyle, Wells, Hoyt  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ABOLISH THE ARKANSAS STATE BOARD OF  
10 MASSAGE THERAPY AND TO TRANSFER ALL DUTIES TO THE  
11 DEPARTMENT OF HEALTH; AND FOR OTHER PURPOSES.  
12

### Subtitle

14 TO ABOLISH THE ARKANSAS STATE BOARD OF  
15 MASSAGE THERAPY AND TO TRANSFER ALL  
16 DUTIES TO THE DEPARTMENT OF HEALTH.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

#### 21 SECTION 1. Legislative intent.

22 (a) The General Assembly declares that this act is necessary to:

23 (1) Improve the health of the citizens of Arkansas in an  
24 effective and efficient manner; and

25 (2) Provide effective administration of the delivery of massage-  
26 related programs.

27 (b) It is the intent of the General Assembly to provide an orderly  
28 transfer of powers, authorities, duties, and functions of the Arkansas State  
29 Board of Massage Therapy to the State Board of Health and the Department of  
30 Health with a minimum disruption of government services and functions and  
31 with a minimum expense.  
32

#### 33 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY.

34 (a)(1) Effective July 1, 2009, the Arkansas State Board of Massage  
35 Therapy is abolished and transferred to the State Board of Health and the  
36 Department of Health by a type 3 transfer under § 25-2-106.



1           (2) As used in this act, the department shall be considered a  
2 principal department established by Acts 1971, No. 38, § 11.

3           (b)(1) All authority, powers, duties, and functions as established by  
4 law for the Arkansas State Board of Massage Therapy, including all  
5 purchasing, budgeting, fiscal, accounting, human resources, payroll, legal,  
6 information systems, maintenance, program support, administrative support,  
7 and other management functions are transferred to the State Board of Health  
8 and the department, except as specified in this act.

9           (2)(A) All records, personnel, property, unexpended balances of  
10 appropriations, allocations, or other funds are transferred to the  
11 department.

12           (B) All funds shall be deposited into the Public Health  
13 Fund.

14           (3) All powers, duties, and functions including without  
15 limitation rulemaking, regulation, and licensing, promulgation of rules,  
16 rates, regulations, and standards, and the rendering of findings, orders, and  
17 adjudications as established by law for the Arkansas State Board of Massage  
18 Therapy are transferred to the State Board of Health, except as specified in  
19 this act.

20           (c) The Arkansas Code Revision Commission shall replace “Arkansas  
21 State Board of Massage Therapy” in the Arkansas Code with “State Board of  
22 Health”, except as specified in this act.

23  
24           SECTION 3. Arkansas Code § 17-86-102(1), concerning definitions in the  
25 Massage Therapy Act, is amended to read as follows:

26           (1) “Board” means the ~~Arkansas State Board of Massage Therapy~~  
27 State Board of Health;

28  
29           SECTION 4. Arkansas Code § 17-86-103(b) is amended to read as follows:

30           (b) It shall be the duty of the prosecuting attorney in the county  
31 where the violation occurs, upon request by the ~~Arkansas State Board of~~  
32 Massage Therapy State Board of Health, to initiate proper legal proceedings  
33 in a court of competent jurisdiction to enforce the provisions of this  
34 chapter.

35  
36           SECTION 5. Arkansas Code Title 17, Chapter 86, Subchapter 2 is amended

1 to read as follows:

2 17-86-201. Members.

3 (a)(1)(A) ~~The Arkansas State Board of Massage Therapy~~ The Massage  
4 Therapy Technical Advisory Committee is created and shall consist of seven  
5 (7) members, who shall be appointed by the ~~Governor~~ State Board of Health for  
6 a term of three (3) years.

7 (B) A member may be removed from the committee by the  
8 board for cause.

9 (2)(A) Four (4) members shall be licensees under this chapter.

10 (B) These members shall be full voting members.

11 (3)(A) One (1) member, to represent senior citizens, shall be  
12 sixty (60) years of age or older and shall not be engaged in or retired from  
13 the practice of massage therapy.

14 (B) This member shall be a full voting member.

15 (4)(A) One (1) member, to represent the public, shall not be  
16 engaged in or retired from the practice of massage therapy.

17 (B) This member shall be a full voting member.

18 (5)(A) One (1) member, to represent the medical field, shall not  
19 be engaged in or retired from the practice of massage therapy.

20 (B) This member shall be a full voting member and shall be  
21 a person exempted from the provisions of this law under § 17-86-301(b)(1).

22 (6)(A) ~~Board members who are sitting in the board positions~~  
23 ~~described in this subsection on August 1, 1997, will remain as members of the~~  
24 ~~board until the term of that member's appointment expires or until that~~  
25 ~~member is removed from the board or until that member resigns from the board~~  
26 ~~or dies before the term of his or her appointment expires.~~

27 (B)(A) ~~Board~~ Committee members appointed to their  
28 positions ~~after August 1, 1997,~~ shall be selected in equal apportionment from  
29 the congressional districts of the state as provided in § 25-16-801 and shall  
30 be subject to confirmation by the Senate.

31 (C)(B) A ~~board~~ committee position becomes vacant  
32 immediately when the member filling that position moves to another state.

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

1 (c)(1) Members shall be paid and receive a fee of no less than fifty  
2 dollars (\$50.00) per diem for each day actually engaged in attending board  
3 committee meetings or performing other official duties.

4 (2)(A) All ~~board~~ committee members shall receive reimbursement  
5 for all reasonable and necessary travel at the rate approved for state  
6 employees.

7 (B) Lodging and other expenses incurred in the performance  
8 of their official duties will also be paid on the approved scale for state  
9 employees.

10  
11 ~~17-86-202. Officers and employees.~~

12 ~~(a)(1)(A) Arkansas State Board of Massage Therapy officers, elected by~~  
13 ~~the board from among their own members, shall be a president, a vice~~  
14 ~~president, and a secretary.~~

15 ~~(B) Election of an officer or officers shall take place~~  
16 ~~during a regularly scheduled board meeting or during a special nonconference~~  
17 ~~call board meeting. An election to fill a vacancy in an elected office will~~  
18 ~~take place during the first regularly scheduled meeting or during the first~~  
19 ~~special nonconference call meeting immediately following the creation of the~~  
20 ~~vacancy.~~

21 ~~(2) Board officers may be removed from their elected offices for~~  
22 ~~failure to fulfill the duties of their respective offices. Removal of such a~~  
23 ~~board member from his or her elected office will be considered in an~~  
24 ~~executive session as provided by § 25-19-106. The executive session will be~~  
25 ~~called by the board during a regular or special nonconference call meeting.~~  
26 ~~If a motion to remove the board member from his or her elected office is~~  
27 ~~arrived at in the executive session, members will reconvene in accordance~~  
28 ~~with § 25-19-106 in the public meeting to vote to remove the board member~~  
29 ~~from his or her elected office.~~

30 ~~(b) The board is authorized to employ an executive director, regular~~  
31 ~~or special counsel, inspectors, clerks, secretaries, and other personnel as~~  
32 ~~it may deem necessary to carry out the provisions of this chapter. At no time~~  
33 ~~shall the executive director, counsel, inspectors, clerks, secretaries, and~~  
34 ~~other personnel exceed ten (10) employees, and no employee of the board shall~~  
35 ~~be a board member, related by blood or marriage to any member of the board,~~  
36 ~~be an employee of a board member, or shall have any financial interest in the~~

1 ~~practice or instruction of massage therapy.~~

2  
3 17-86-203. Powers and duties.

4 (a)(1) ~~The Arkansas State Board of Massage Therapy is empowered to~~  
5 Department of Health may promulgate and enforce reasonable rules and  
6 ~~regulations for the purpose of carrying~~ to carry out the provisions of this  
7 chapter.

8 (2) The ~~board~~ department shall follow the provisions found in  
9 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., as to “rule”  
10 and “rule-making” definitions and for the adoption and filing of rules ~~and~~  
11 ~~regulations.~~

12 (b)(1)(A) It shall ~~also~~ be the duty of the ~~board~~ department to inspect  
13 or cause to be inspected at least once each year all massage therapy schools  
14 operated in this state.

15 (B) The ~~board~~ department and its agents and employees  
16 shall have and they are given the authority to enter and inspect any massage  
17 therapy clinic or school during any operating hours of the business.

18 (2) The ~~board~~ department and its agents and employees shall not  
19 request or be granted permission to enter ~~any~~ a room of a massage therapy  
20 clinic or school in which a client is receiving treatment from a licensee  
21 under this chapter.

22 (c) The ~~board~~ department may hold licensing examinations from time to  
23 time at such place or places as the ~~board~~ department may designate.

24 (d) The department shall promulgate by rule the duties and powers of  
25 the Massage Therapy Technical Advisory Committee.

26  
27 17-86-204. Records.

28 (a)(1) ~~The Executive Director of the Arkansas State Board of Massage~~  
29 ~~Therapy~~ Department of Health shall maintain a record book and computer file  
30 in which will be entered the names and addresses of all persons to whom  
31 licenses have been granted under this chapter, the license number, and the  
32 dates of granting ~~such~~ the licenses ~~and,~~ renewals ~~thereof,~~ and other matters  
33 of record.

34 (2) ~~The executive director will move to a separate book and file~~  
35 ~~the~~ The records of all persons who have died, have let their licenses lapse  
36 for three (3) years, whose licenses have been suspended or revoked by the

1 ~~Arkansas State Board of Massage Therapy~~ department, or cancelled by the  
2 licensee shall be moved to a separate record book.

3 (b)(1) The record books and computer files ~~so~~ provided and maintained  
4 ~~shall be deemed and~~ are considered a book of records and files of records,  
5 and they will be kept in a timely manner.

6 (2) A transcript of any record ~~therein or a~~ license number, or  
7 date of granting ~~such~~ a license to a person charged with a violation of any  
8 of the provisions of this chapter shall be admitted as evidence in any of the  
9 courts of this state if certified under the hand of the ~~executive~~ director of of  
10 the department.

11 (c) The original books, records, and papers of the ~~board~~ department  
12 shall be maintained at the offices of the ~~board~~ department.

13 (d)(1) Copies of records may be furnished to ~~any~~ a person requesting  
14 them upon payment of ~~such~~ the copying fee as the ~~board~~ department may require  
15 and as Arkansas state laws and regulations permit.

16 (2) However, licensing exams shall be exempt from the Freedom of  
17 Information Act of 1967, § 25-19-101 et seq.

18  
19 17-86-205. Disposition of funds.

20 (a)(1) All moneys remitted to the ~~Arkansas State Board of Massage~~  
21 ~~Therapy~~ State Board of Health under this chapter shall be accepted in the  
22 form of cashiers checks or money orders and made payable to the ~~Arkansas~~  
23 ~~State Board of Massage Therapy~~ Department of Health.

24 (2) The ~~Executive Director of the Arkansas State Board of~~  
25 ~~Massage Therapy~~ shall deposit all such funds received in a timely manner in  
26 accordance with laws of the State of Arkansas and regulations of the  
27 ~~Department of Finance and Administration~~ moneys collected under this chapter  
28 shall be paid into the State Treasury and shall be credited to the Public  
29 Health Fund.

30 (b) All ~~salaries and expenses of the board~~ shall be paid from funds  
31 ~~created by the various fees charged by and remitted to the board under the~~  
32 ~~provisions of this chapter~~ The fees, fines, penalties, and receipts shall be  
33 for the general uses of the department.

34 (c) Salaries and other expenses incurred in carrying out the  
35 provisions of this chapter and other programs administered by the department  
36 shall be paid from the fees, fines, penalties, and receipts.

1  
2 SECTION 6. Arkansas Code § 17-86-301 is amended to read as follows:  
3 17-86-301. Registration required – Exemptions.

4 (a) It shall be unlawful:

5 (1)(A) For ~~any~~ a person who does not hold a valid license to use  
6 the following titles: massage therapist, massage practitioner, myotherapist,  
7 masso therapist, massage technologist, masseur, masseuse, therapy  
8 technologist, master massage therapist, massage therapy instructor, or any  
9 derivation of those titles or to advertise such titles; or

10 (B) For ~~any~~ a person who does not hold the applicable  
11 license issued by the ~~Arkansas State Board of Massage Therapy~~ Department of  
12 Health to engage professionally for payment, barter, donation, or exchange in  
13 the practice or instruction of massage therapy as defined in this chapter;

14 (2) For ~~any~~ a person to operate or conduct any massage therapy  
15 clinic or massage therapy school which does not conform to the sanitary  
16 regulations contained in § 17-86-302, in state law, in local ordinances, or  
17 in those rules ~~and regulations which~~ that may be adopted by the ~~board~~  
18 department;

19 (3) To employ ~~any~~ a person to practice or instruct under this  
20 chapter who does not hold a valid license issued by the ~~board~~ department;

21 (4) For ~~any~~ a person to operate a massage therapy school or  
22 clinic without its first being registered under the provisions of this  
23 chapter as a licensed massage therapy school or registered clinic; or

24 (5) For the ~~board~~ department or other individual or entity to  
25 incorporate privileges or certification requirements of any private  
26 organization, private professional association, or private accrediting agency  
27 within Arkansas massage laws or its rules ~~and regulations~~. However, the ~~board~~  
28 department may adopt as its licensure exam an exam drafted and administered  
29 by a private organization, private professional association, or private  
30 accreditation agency.

31 (b) Exemptions:

32 (1) Persons authorized by the laws of this state to practice  
33 medicine, osteopathy, podiatry, or physical therapy, and licensed physicians'  
34 assistants, licensed nurses, licensed physical therapy assistants, licensed  
35 acupuncturists, licensed midwives, and chiropractors are exempt from this  
36 chapter in so far as massage therapy practices are offered or instructed

1 within the scope and under the provisions of licensure;

2 (2) Persons authorized by the ~~board~~ department to present and  
3 instruct ~~board-approved~~ department-approved school curriculum or continuing  
4 education programs, or both, may present and instruct such ~~board-approved~~  
5 department-approved curriculum and programs for payment and in the  
6 presentation and instruction may utilize practices defined in, but without  
7 being licensed or registered under, the provisions of this chapter; and

8 (3) The practice of massage therapy that is incidental to a  
9 program of study by students enrolled in a licensed massage therapy school  
10 approved by the ~~board~~ department, and under direct supervision of a licensee  
11 employed as an instructor at the school, is exempt from § 17-86-311(a)(10).

12  
13 SECTION 7. Arkansas Code § 17-86-303(a) and (b), concerning  
14 registration requirements, is amended to read as follows:

15 (a) ~~In order to~~ To be licensed as a massage therapist, ~~the~~ a person  
16 seeking licensure shall:

17 (1) Furnish to the ~~Arkansas State Board of Massage Therapy~~  
18 Department of Health satisfactory proof that he or she is eighteen (18) years  
19 of age or older and of good moral character;

20 (2) Make oath that he or she has not been convicted of or found  
21 guilty of or entered a plea of guilty or nolo contendere to any offense that  
22 would constitute a felony or constitute the offense of prostitution, either  
23 in this state or the United States, and submit a signed authorization to  
24 investigate and have information released to the ~~board~~ department;

25 (3) Present a high school diploma, graduate equivalency diploma,  
26 or college transcript and credentials issued by a ~~board~~ department-accepted  
27 massage therapy school or a like institution with no fewer than five hundred  
28 (500) in-classroom hours of instruction;

29 (4) Furnish to the ~~board~~ department satisfactory proof of  
30 passing an examination recognized and approved by the ~~board~~ department;

31 (5) Present a physician's statement declaring such a person free  
32 from infectious tuberculosis and any disease or condition which could pose a  
33 health risk to the public in the practice of massage therapy. Such an  
34 examination must have taken place within the preceding twelve (12) months;  
35 and

36 (6) Pay the specified fees, which shall accompany a completed



1 notarized application to the ~~board~~ department.

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

3 (A) Registration fee . . . . . \$75.00

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

5 (C) Examination fee or reexamination fee . . . . . 25.00

6 (2)(A) ~~Should reexamination be necessary~~ If a reexamination is  
7 necessary, the registration fee of seventy-five dollars (\$75.00) will be held  
8 until after the reexamination is taken.

9 (B) ~~Should~~ If the reexamination qualifications are not ~~be~~  
10 met, the ~~board~~ department will refund the seventy-five dollars (\$75.00) but  
11 not the examination and reexamination fees.

12  
13 SECTION 8. Arkansas Code § 17-86-304(a), concerning master massage  
14 therapists, is amended to read as follows:

15 (a) ~~Any~~ A person who holds a license as a massage therapist issued by  
16 the ~~Arkansas State Board of Massage Therapy~~ Department of Health and who  
17 submits satisfactory evidence to the ~~board~~ department that he or she has  
18 completed and meets the requirements stated in § 17-86-102(3) shall be  
19 entitled to be upgraded to master massage therapist.

20  
21 SECTION 9. Arkansas Code § 17-86-305(a), concerning massage therapy  
22 instructors, is amended to read as follows:

23 (a) ~~Any~~ A person who holds a license as a master massage therapist  
24 issued by the ~~Arkansas State Board of Massage Therapy~~ Department of Health  
25 and who submits satisfactory evidence to the ~~board~~ department that he or she  
26 has successfully completed and meets the requirements stated in § 17-86-  
27 102(8) shall be entitled to be upgraded to massage therapy instructor.

28  
29 SECTION 10. Arkansas Code § 17-86-306(a) through (e), concerning  
30 massage therapy schools, is amended to read as follows:

31 (a) ~~No~~ A person or persons may not establish, operate, or maintain a  
32 massage therapy school without first having obtained a certificate of school  
33 licensure issued by the ~~Arkansas State Board of Massage Therapy~~ Department of  
34 Health.

35 (b) ~~No~~ A school shall not be approved by the ~~board~~ department or  
36 granted a certificate of licensure until such appropriate application and

1 inspection forms as prescribed by the ~~board~~ department have been completed  
2 and approved and the licensure fee has been paid.

3 (c)(1) Inspection of the school premises will be made by a ~~board~~  
4 Massage Therapy Technical Advisory Committee member and required forms  
5 completed and returned to the ~~Executive Director of the Arkansas State Board~~  
6 ~~of Massage Therapy~~ department with approval or recommendations.

7 (2) ~~Should~~ If the school facilities do not pass the first  
8 inspection and, after recommendations, failures are corrected, a second  
9 inspection will be made within thirty (30) days to determine the school's  
10 eligibility.

11 (d) The school shall be required to furnish such additional  
12 information and documents as may be required by the ~~board~~ department.

13 (e) The ~~board~~ department may certify the school and provide ~~for~~  
14 licensure ~~thereof~~, provided that the school follows a curriculum approved by  
15 the ~~board~~ department consisting of not fewer than five hundred (500) hours of  
16 in-classroom instruction over a term of not fewer than four (4) months  
17 consisting of the following subjects:

18 (1) One hundred seventy-five (175) hours of anatomy, physiology,  
19 pathology, and contraindications to massage therapy;

20 (2) Two hundred twenty-five (225) hours of technique;

21 (3) Twenty-five (25) hours of hydrotherapy, electrotherapy, and  
22 heliotherapy;

23 (4) Twenty-five (25) hours of hygiene and infection control;

24 (5) Twenty-five (25) hours of massage therapy law, business  
25 management, and professional ethics; and

26 (6) Twenty-five (25) hours of related subjects as approved by  
27 the ~~board~~ department.

28  
29 SECTION 11. Arkansas Code § 17-86-307 is amended to read as follows:

30 17-86-307. Massage therapy clinic.

31 (a) ~~No~~ A person may not establish, maintain, or operate a massage  
32 therapy clinic until the address and telephone number of the office or clinic  
33 has been supplied in writing to the ~~Arkansas State Board of Massage Therapy~~  
34 Department of Health.

35 (b) In the event a massage therapy clinic moves to a new location or  
36 changes its phone number, the new address or phone number, or both, will be

1 immediately submitted to the ~~board~~ department in writing prior to operating  
2 the clinic at the new address.

3  
4 SECTION 12. Arkansas Code § 17-86-308 is amended to read as follows:  
5 17-86-308. Reciprocity.

6 The ~~Arkansas State Board of Massage Therapy~~ Department of Health shall  
7 have the discretion to enter into reciprocal relations with other states and  
8 territories whose licensure requirements are substantially the same as those  
9 provided in this chapter.

10  
11 SECTION 13. Arkansas Code § 17-86-309(a) - (c), concerning license  
12 renewals, is amended to read as follows:

13 (a)(1) Each license for licensees and massage schools shall be valid  
14 for a period of one (1) year and shall expire on June 30 of each year,  
15 whereupon a renewal license may be issued upon submission of completed  
16 license renewal application with payment of the fee or fees prescribed for  
17 class of certification.

18 ~~(2)(A) Prior to July 1, 1999, each renewal for licensees shall~~  
19 ~~be accompanied by proof of no fewer than three (3) in-classroom hours of~~  
20 ~~continuing education which has been approved by the Arkansas State Board of~~  
21 ~~Massage Therapy Department of Health.~~

22 ~~(3) Beginning July 1, 1999, each~~ Each renewal for licensees  
23 shall be accompanied by proof of no fewer than six (6) hours of continuing  
24 education which have been approved by the ~~Arkansas State Board of Massage~~  
25 ~~Therapy~~ Department of Health.

26 (B) A licensee may carry over no more than six (6)  
27 additional hours of continuing education from the previous licensing period.

28 ~~(4)(3)~~ Each renewal shall be accomplished by a statement from a  
29 qualified health care provider issued during the preceding twelve (12) months  
30 verifying that the licensee is free from contagious tuberculosis.

31 (b) The ~~board~~ department shall have the authority to levy penalties  
32 for late renewals by licensees which begin July 1 in the amount of twenty-  
33 five dollars (\$25.00) per month or portion thereof for a period not to exceed  
34 six (6) months.

35 (c) The ~~board~~ department shall issue a license effective as of the  
36 date of receipt of the late application and all renewal fees, penalties, and

1 required documentation.

2

3 SECTION 14. Arkansas Code § 17-86-310(b), concerning the display of a  
4 license, is amended to read as follows:

5 (b) Each license shall provide the correct address of the ~~Arkansas~~  
6 ~~State Board of Massage Therapy~~ Department of Health.

7

8 SECTION 15. Arkansas Code § 17-86-311 is amended to read as follows:  
9 17-86-311. Revocation, suspension, or denial.

10 (a) The ~~Arkansas State Board of Massage Therapy~~ Department of Health  
11 may deny, suspend, or revoke a license upon any one (1) of the following  
12 grounds:

13 (1) Conviction of or finding of guilt or entry of a plea of  
14 guilty or nolo ~~contendere~~ contendere to a felony or prostitution;

15 (2) Malpractice or gross incompetency;

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

19 (4) Habitual drunkenness or habitual use of any illegal drugs;

20 (5) Serving or having a permit to serve alcoholic beverages at  
21 the clinic or school;

22 (6) Engaging in moral turpitude or immoral or unprofessional  
23 conduct;

24 (7) Failure to comply with any valid regulation or order of the  
25 ~~board~~ department;

26 (8) Invasion of the field of practice of any profession for  
27 which a license is required, the diagnosis of ailments, diseases, or injuries  
28 of human beings, the performance of osseous adjustments, prescription of  
29 medications, or other breaches of the scope of practice of massage therapy;

30 (9) Failure of ~~any~~ a licensee to comply with the provisions of  
31 this chapter; or

32 (10) Failure to have licensed personnel to perform massage  
33 therapy techniques in his or her clinic or school.

34 (b)(1) Charges may be brought by any person, or the ~~board~~ department  
35 ~~on its own motion may direct the Executive Director of the Arkansas State~~  
36 ~~Board of Massage Therapy to prefer charges.~~

1 (2) ~~Any~~ An accusation of any of the offenses enumerated in this  
 2 section may be filed with the ~~executive director~~ department. The accusations  
 3 shall be in writing, signed by the accuser, and verified under oath.

4 (c)(1) The department shall revoke the license of a person who  
 5 engages in the practice of massage of the anus or the genital area of another  
 6 person.

7 (2) The department shall revoke the license of a person who  
 8 engages in the practice of massage of the breasts unless the massage  
 9 therapist:

10 (i) Engages in the practice of massage of the breasts for  
 11 therapeutic and medical purposes including without limitation the reduction  
 12 of scar tissue following a surgery on the breast, release of myofascial  
 13 binding, or improving lymphatic flow; and

14 (ii) Has received at least forty-eight (48) hours of  
 15 continuing education credits in lymphatic massage, myofascial massage,  
 16 orthopedic massage, or oncology massage.

17 (3) A revocation of a license under subdivision (c)(1) and (2)  
 18 of this section shall be for a period of three (3) years.

19 (d) In denying, suspending, or revoking ~~any~~ a license, the ~~board~~  
 20 department shall afford any party review as provided for in the Arkansas  
 21 Administrative Procedure Act, § 25-15-201 et seq., and as otherwise provided  
 22 by the rules ~~and regulations~~ of the ~~board~~ department.

23  
 24 SECTION 15. Arkansas Code § 17-86-312 is amended to read as follows:  
 25 17-86-312. Fees.

26 All registration fees and other fees due the ~~Arkansas State Board of~~  
 27 ~~Massage Therapy~~ Department of Health shall be paid in accordance with the  
 28 provisions of this chapter and all other laws ~~and regulations~~ of this state.  
 29

30 SECTION 16. Arkansas Code § 17-86-313(a)(1), concerning the  
 31 grandfather clause, is amended to read as follows:

32 17-86-313. Grandfather clause – Ability to upgrade status.

33 (a)(1) In the event the qualifications for a specific license are  
 34 increased or changed, a person holding a particular license from the ~~Arkansas~~  
 35 ~~State Board of Massage Therapy~~ Department of Health may continue to hold that  
 36 license or may upgrade from massage therapist to master massage therapist or

1 from master massage therapist to massage therapy instructor, without meeting  
2 current requirements for the particular license the person held at the time  
3 of the increase or change.

4  
5 SECTION 17. Arkansas Code § 19-4-906(a)(041), concerning motor vehicle  
6 restrictions and authorizations, is repealed:

7 ~~(041) Arkansas State Board of Massage Therapy~~

8  
9 SECTION 18. Arkansas Code § 19-5-1215 is repealed.

10 ~~19-5-1215. Massage Therapy Board Fund.~~

11 ~~(a) There is established on the books of the Treasurer of State, the~~  
12 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~  
13 ~~known as the "Massage Therapy Board Fund".~~

14 ~~(b)(1) This fund shall consist of those fees set out in § 17-86-201 et~~  
15 ~~seq.~~

16 ~~(2) The fund shall be used for the administration and expenses~~  
17 ~~of the Arkansas State Board of Massage Therapy as set out in § 17-86-201 et~~  
18 ~~seq.~~

19  
20 SECTION 18. Arkansas Code § 25-16-903(34) is amended to read as  
21 follows:

22 (34) ~~Arkansas State Board of Massage Therapy~~ Technical Advisory  
23 Committee;

24  
25 /s/ Pyle  
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