

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

ACT 840 OF 1997  
HOUSE BILL 1880

4  
5 By: Representatives Whorton, Hall, Madison and Mullenix  
6  
7

## For An Act To Be Entitled

8  
9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE  
10 17, CHAPTER 86 ET SEQ. TO BRING ARKANSAS MASSAGE LAWS INTO  
11 COMPATIBILITY WITH THE RAPID DISCOVERY OF NEW TECHNIQUES,  
12 BENEFITS AND VARIETIES OF FOCUS IN CURRENT MASSAGE  
13 PRACTICE; TO EXPAND THE DEFINITION OF MASSAGE THERAPIST  
14 AND MASSAGE SCHOOL; TO AMEND THE REQUIREMENTS FOR  
15 UPGRADING TO MASTER MASSAGE THERAPIST AND MASSAGE THERAPY  
16 INSTRUCTOR; TO EXEMPT BOARD APPROVED CONTINUING EDUCATION  
17 PROVIDERS AND CONTINUING EDUCATION PROGRAMS FROM  
18 REGISTRATION REQUIREMENTS; TO ESTABLISH A GRANDFATHER  
19 CLAUSE; FOR STYLISTIC CHANGE; AND FOR OTHER PURPOSES."

## Subtitle

20  
21  
22 "AN ACT TO UPDATE THE MASSAGE LAW AND  
23 EXPAND MASSAGE THERAPIST AND MASSAGE  
24 SCHOOL DEFINITIONS."  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code 17-86-102 is amended to read as follows:

29 "17-86-102. Definitions.

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

31 (1) Massage therapy means to engage in the practice of any of the  
32 following procedures:

33 (A) All Swedish massage therapy techniques and procedures, either  
34 hands-on or with mechanical devices;

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

36 (C) ~~Hot or cold packs~~ Therapeutic application of hot or cold

1 packs;

2 (D) Hydrotherapy techniques;

3 (E) Heliotherapy;

4 (F) Electrotherapy;

5 (G) Reflexology; and

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

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

9 (3)(A) Massage therapist means a person who has earned a diploma from  
10 an accredited school of massage therapy, and who has passed the Arkansas State  
11 Board of Massage Therapy examination, or who has met the reciprocity  
12 requirements of §17-86-308, and who has become licensed and registered to  
13 practice massage therapy as defined in subdivision (1) of this section.

14 (B) Massage therapists may instruct board approved continuing  
15 education programs, and under the direct supervision of a massage therapy  
16 instructor or master massage therapist, assist in the instruction of the  
17 procedures defined in §17-86-102(1)(A)(B)and (C) any of the procedures in  
18 subdivision (1) of this section;

19 (C) A massage therapist may also mean a person who had previously  
20 obtained the massage therapist license under prior state law.

21 (4)(A) Master massage therapist means a person who is a licensed and  
22 registered massage therapist, with no less than four (4) years' experience in  
23 the practice of massage therapy, and has completed no less than six (6)  
24 continuing education hours in the past two (2) years, and who is deemed by the  
25 board to be qualified to assist under the direction of a massage therapy  
26 instructor pursuant to the regulations promulgated by the board; who has  
27 completed no less than two hundred fifty (250) hours of practical experience  
28 as a massage therapist, such experience which may be gained in part or in  
29 whole as an assistant to an instructor in a massage school, and in addition to  
30 that experience, has completed no less than one hundred twenty-five (125)  
31 continuing education hours as approved by the board, and who is determined by  
32 the board to be qualified to be licensed and registered to practice massage  
33 therapy as defined in subdivision (1) of this section.

34 (B) Master massage therapists may instruct board approved  
35 continuing education programs, and/or instruct any of the procedures in  
36 subdivision (1) of this section, and/or instruct, as directed by a massage

1 therapy instructor, basic curriculum in a board registered massage therapy  
 2 school, as required by §17-86-306(c)(1) through (6); and

3 (C) A master massage therapist may also mean a person, who had  
 4 previously obtained the master massage therapist license under a prior state  
 5 law.

6 (5)(A) Massage therapy instructor means a person who ~~has been~~ is  
 7 licensed and registered as a master massage therapist for no less than six (6)  
 8 years, and who has completed at least nine (9) continuing education hours in  
 9 three (3) years pursuant to regulations promulgated by the board, and who is  
 10 deemed by the board to be qualified to teach and administer any of the  
 11 activities listed in subdivision (1) of this section who has completed no less  
 12 than two hundred fifty (250) hours of practical experience as a master massage  
 13 therapist, such experience which may be gained in part or in whole as an  
 14 assistant to an instructor in a massage school, or may be gained in part or  
 15 in whole as a directed instructor in a massage school, and in addition to that  
 16 experience, has completed no less than two hundred fifty (250) continuing  
 17 education hours as approved by the board, and who is determined by the board  
 18 to be qualified to be licensed and registered to practice massage therapy as  
 19 defined in subdivision (1) of this section.

20 (B) Massage therapy instructors may instruct board approved  
 21 continuing education programs, and/or instruct any of the procedures in  
 22 subdivision (1) of this section, and/or instruct basic curriculum in a board  
 23 registered massage therapy school, as required by §17-86-306(c)(1) through  
 24 (6);

25 (C) Massage therapy instructor may also mean a person who had  
 26 previously obtained the massage therapy instructor license under prior state  
 27 law.

28 (6) Massage therapy office or clinic means a clinic or place where  
 29 there is one (1) or more ~~of the named~~ massage therapists, master massage  
 30 therapists, or massage therapy instructors as defined in the above categories  
 31 practicing massage therapy; and

32 (7) Massage therapy school means a registered and licensed place of  
 33 business wherein massage therapy is taught by/or under the ~~direction~~  
 34 supervision and/or direction of a ~~licensed and~~ registered massage therapy  
 35 instructor-, and may utilize registered massage therapists as supervised  
 36 assistants, and/or registered master massage therapists as directed

1 instructors, and/or medical personnel as exempted from this law in §17-86-  
 2 301(b)(1) as instructors; and

3 (8) This chapter means Arkansas Code §17-86-101 et seq., the Massage  
 4 Therapy Act ."

5

6 SECTION 2. Arkansas Code 17-86-201 is amended to read as follows:  
 7 "17-86-201. Members.

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

11 (1) Four (4) members shall be licensed ~~to practice massage~~  
 12 ~~therapy~~ in this state as massage therapists, master massage therapists or  
 13 massage therapy instructors. These members shall be full voting members and  
 14 shall administer and grade examinations.

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

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

25 (4) One (1) member, to represent the medical field, shall ~~be a~~  
 26 ~~full voting member, but shall not be participate engaged in the grading of~~  
 27 ~~examinations or retired from the practice of massage therapy.~~ This member  
 28 shall be a full voting member, and shall be a person exempted from the  
 29 provisions of this law as listed in and except as provided in  
 30 §17-86-301(b)(1).

31 (5) Board members who are sitting in the board positions  
 32 described in subsection (a) of this section on the date these 1997 amendments  
 33 to § 17-86-101 et seq. become effective, will remain as members of the board  
 34 until the term of such a members appointment expires, or until such a member  
 35 is removed from the board, or until such a member resigns from the board, or  
 36 dies, before the term of their appointment expires.

1                   (A) Board members appointed to their positions after these  
 2 1997 amendments to § 17-86-101 et seq. become effective shall be selected in  
 3 equal apportionment from the congressional districts of the state as provided  
 4 in § 25-16-801 and shall be subject to confirmation by the Arkansas Senate.

5                   (B) A board position becomes vacant immediately when the  
 6 member filling that position moves to another state or immediately after the  
 7 member filling that position misses attendance at three (3) consecutive  
 8 regularly scheduled board meetings.

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

13           (c)(1) No member of the board except the secretary-treasurer, who shall  
 14 receive a salary of no more than ~~six hundred dollars (\$600)~~ seven hundred  
 15 fifty dollars (\$750) per month or in accordance with the Department of Finance  
 16 and Administration guidelines, shall be paid or receive a regular salary, but  
 17 members shall be paid and receive a fee of no less than ~~fifty-five dollars~~  
 18 ~~(\$55.00)~~ fifty dollars (\$50) per diem for each day actually engaged in  
 19 attending board meetings or performing other official duties.

20           (2) All board members shall receive reimbursement for all  
 21 reasonable and necessary travel at the rate approved for state employees.  
 22 Lodging and other expenses incurred in the performance of their official  
 23 duties will also be paid on the approved scale for state employees."  
 24

25           SECTION 3. Arkansas Code 17-86-202 is amended to read as follows:

26           "17-86-202. Officers and employees.

27           (a)(1) ~~The board will meet at some convenient place within the state and~~  
 28 ~~shall elect a president, vice president, and secretary-treasurer from their~~  
 29 ~~own members. Board officers, elected by the board from among their own~~  
 30 members, shall be a president, a vice president and a secretary-treasurer.

31           (A) Election of an officer or officers shall take place  
 32 during a regular scheduled board meeting or during a special non conference  
 33 call board meeting. An election to fill a vacancy in an elected office will  
 34 take place during the first regular scheduled meeting, or during the first  
 35 special non conference call meeting, immediately following the creation of the  
 36 vacancy.

1                   (B) An elected officer of the board shall hold his or her  
 2 elected position for the duration of his or her board appointment unless they  
 3 resign from the office or unless they are removed from the office as provided  
 4 in §17-86-202(a)(3).

5                   (C) Board members holding positions as elected officers on  
 6 the date these 1997 amendments to §17-86-101 et seq. become effective, will  
 7 hold their elected office for the duration of their board appointment unless  
 8 they resign from the office or are removed from the office as provided in §  
 9 17-86-202(a)(3).

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

13                   (3) Board officers may be removed from their elected offices for  
 14 failure to fulfill the duties of their respective offices. Removal of such a  
 15 board member from his or her elected office will be considered in an executive  
 16 session as provided by § 25-19-106 in the Freedom of Information Act. The  
 17 executive session will be called by the board during a regular or special non  
 18 conference call meeting. If a motion to remove such board member from his or  
 19 her elected office is arrived at in the executive session, members will  
 20 reconvene, in accordance with § 25-19-106, in the public meeting to vote to  
 21 remove the board member from his or her elected office.

22                   (b) The board is authorized to employ regular or special counsel,  
 23 inspectors, clerks, secretaries, and other personnel as it may deem necessary  
 24 to carry out the provisions of this chapter. At no time shall the counsel,  
 25 inspectors, clerks, secretaries, and other personnel exceed ten (10)  
 26 employees, and no employee of the board shall be a board member, or related by  
 27 blood or marriage to any member of the board, or be an employee of a board  
 28 member, or shall have any financial interest in the practice or instruction of  
 29 massage therapy."

30

31                   SECTION 4. Arkansas Code 17-86-203 is amended to read as follows:

32                   "17-86-203. Powers and duties.

33                   (a)(1) The board is empowered to promulgate and enforce reasonable rules  
 34 and regulations for the purposes of carrying out the provisions of this  
 35 chapter.

36                   (2) The board shall follow the provisions found in the Arkansas

1 Administrative Procedures Act §25-15-201 as to rule and rule making  
 2 definitions, and for the adoption and filing of rules and regulations.

3 (b)(1) It shall also be the duty of the board to ~~examine and inspect,~~  
 4 or cause to be ~~examined or inspected,~~ at least once each year, all massage  
 5 therapy schools operated in this state. The board and its agents and  
 6 employees shall have and they are given authority to enter and inspect any  
 7 ~~such~~ massage therapy office, clinic, or school ~~at any time during the time~~  
 8 ~~when the business is open for the transaction of business~~ any operating hours  
 9 of the business.

10 (2) The board and its agents and employees shall not request or be  
 11 granted permission to enter any room of a massage therapy office, clinic or  
 12 school, in which a client is present.

13 (c)(1) The board shall hold at least one (1) licensing examination each  
 14 quarter of the year and may hold other examinations from time to time at such  
 15 place or places as the board may designate.

16 (2) The board shall appoint master massage therapists and/or  
 17 massage therapy instructors to proctor examinations.

18 (3) The examination proctors shall not grade examinations, nor  
 19 will they have any affiliation, or financial interest in the massage therapy  
 20 school who has a student who is being tested.

21 (4) Examination proctors shall be paid contract services of fifty  
 22 dollars (\$50.00) per examination plus mileage.

23 (d) The board shall adopt rules and regulations to authorize students,  
 24 while engaged in a course of study within a board registered massage therapy  
 25 school, or while on field trips conducted by such school, to perform massage  
 26 under the direct supervision of a master massage therapist or massage therapy  
 27 instructor."

28  
 29 SECTION 5. Arkansas Code 17-86-204 is amended to read as follows:

30 "17-86-204. Records.

31 (a)(1) The secretary-treasurer of the board shall keep a record book  
 32 and computer file in which ~~shall~~ will be entered the names and addresses of  
 33 all persons to whom certificates have been granted under this chapter, the  
 34 certificate number and the date of granting such certificates and renewals  
 35 thereof, and other matters of record.

36 (2) The secretary-treasurer will move, to a separate book and

1 file, the records of all persons who have died, or have let their license  
 2 lapse for three (3) years, or whose certificates of registration have been  
 3 suspended or revoked by the board, or canceled by the holder of the  
 4 certificate of registration.

5 (b) The record books and computer files so provided and kept shall be  
 6 deemed and considered a book of records and files of records and they will be  
 7 kept in a timely manner. A transcript of any record therein or a certificate  
 8 number or date of granting such certificate to a person charged with a  
 9 violation of any of the provisions of this chapter shall be admitted as  
 10 evidence in any of the courts of this state if certified under the hand of the  
 11 secretary-treasurer.

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

14 (d) Copies of records may be furnished to any person requesting them  
 15 upon payment of such copying fee as the board may require and as Arkansas  
 16 state laws and regulations permit. ~~The fee shall belong to the~~  
 17 ~~secretary-treasurer."~~

18

19 SECTION 6. Arkansas Code 17-86-205 is amended to read as follows:

20 "17-86-205. Disposition of funds.

21 (a) All moneys ~~received by~~ remitted to the board under this chapter  
 22 shall be ~~paid to the secretary-treasurer who shall deposit the funds in~~  
 23 ~~accordance with the laws of the State of Arkansas and regulations of the~~  
 24 ~~Department of Finance and Administration~~ accepted in the form of personal  
 25 check, cashiers check, or money order and made payable to the Arkansas State  
 26 Board of Massage Therapy. The secretary-treasurer of the board shall deposit  
 27 all such funds received in a timely manner in accordance with laws of the  
 28 State of Arkansas and regulation of the Department of Finance and  
 29 Administration.

30 (b) All salaries and expenses of the board shall be paid from ~~cash~~  
 31 funds created by the various fees charged by, and remitted to, the board under  
 32 the provisions of this chapter."

33

34 SECTION 7. Arkansas Code 17-86-301 is amended to read as follows:

35 "17-86-301. Registration required - Exemptions.

36 (a) It shall be unlawful:

1           (1) For any person to ~~engage in the practice of or attempt to~~  
 2 ~~practice massage therapy as~~ use the titles massage therapist , master  
 3 massage therapist , or massage therapy instructor , or advertise such titles,  
 4 or engage for payment, in the practice or instruction of massage therapy as  
 5 defined in this chapter, with or without charge, with the exception of an  
 6 individual giving massage therapy to members of his or her own family, without  
 7 who does not hold the applicable a certificate of registration issued by the  
 8 board; ~~or~~

9           (2) For any person to operate or conduct any massage therapy  
 10 office or clinic which does not conform to the sanitary regulations contained  
 11 in ~~§~~17-86-302, state law, and local ordinances, or those which may be adopted  
 12 by the board; ~~or~~

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

15           (4) For any person to operate a massage therapy school ~~or a~~  
 16 ~~massage therapy office or clinic~~ without it first being registered under the  
 17 provisions of this chapter- as a bona fide and licensed massage therapy  
 18 school; or

19           (5) For the board, or other individual or entity, to incorporate  
 20 privileges, requirements or examinations of any private organization, private  
 21 professional association, or private accrediting agency within Arkansas  
 22 massage laws or its rules and regulations.

23           (b) Exemptions:

24           (1) ~~Physician's trained assistants, licensed nurses, and persons~~  
 25 Persons authorized by the laws of this state to practice medicine, osteopathy,  
 26 ~~chiropractic~~ chiropractic, podiatry, or physical therapy, physicians trained  
 27 assistants, licensed nurses, and chiropractors, are exempt from this chapter-  
 28 except as provided in ~~§~~17-86-201(a)(4) for board members;

29           (2) Persons authorized by the board to present and instruct board  
 30 approved continuing education programs, may present and instruct such programs  
 31 for payment and, in such presentation and instruction utilize practices  
 32 defined in, but without being licensed or registered under, the provisions of  
 33 this chapter;

34           (3) All persons sixty-five (65) or more years of age who hold a  
 35 certificate of registration, issued by the board, are exempt from continuing  
 36 education hours required by ~~§~~17-86-309 (a);

1           (4)(A) Massage schools who have classes in session on the date  
 2 these 1997 amendments to §17-86-306(e)(1) and (2) become effective, will  
 3 complete that session using the curriculum that was required by §17-86-  
 4 306(e)(1) and (2) immediately prior to the date these 1997 amendments become  
 5 effective and will begin following the curriculum as required by the 1997  
 6 amendments with the first class after said amendments become effective;

7           (B) Undergraduate students attending massage school classes  
 8 on the date these 1997 amendments to §17-86-306(e)(1) and (2) become  
 9 effective, will be examined and licensed under the requirements that existed  
 10 prior to the date said amendments become effective and undergraduate students  
 11 who attend massage school classes after the date these 1997 amendments to §17-  
 12 86-306(e)(1) and (2) become effective will be examined and licensed by said  
 13 1997 amendments;

14           (5) The practice of massage therapy that is incidental to a  
 15 program of study by students, enrolled in a registered massage therapy school  
 16 approved by the board, and under direct supervision of a staff instructor of  
 17 said school, is exempt from §17-86-311(a)(10); and

18           (6) Master massage therapists and massage therapy instructors are  
 19 exempt from the provisions of § 17-86-202(b) when they are acting as proctors  
 20 during license examinations as provided by § 17-86-203(c)(1)(2)(3) and (4).

21 ~~(c)(1) The practice of massage therapy that is incidental to a program~~  
 22 ~~of study by students enrolled in a registered massage therapy school approved~~  
 23 ~~by the board is exempt from this chapter.~~

24 ~~(2) The board shall adopt rules and regulations to authorize the~~  
 25 ~~students to perform massage under the direct supervision of the school."~~

26  
 27           SECTION 8. Arkansas Code 17-86-302 is amended as follows:

28           "17-86-302. Sanitary requirements.

29           (a) It shall be unlawful for any person, ~~or school, clinic, or office~~  
 30 to be registered, or any clinic or office to be operated under the provisions  
 31 of this chapter unless the following requirements are met and practiced:

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

33                   (2) Bathroom accommodations must be provided;

34                   (3) A towel or sheet that has been used by one client may not be  
 35 used upon another person unless the towel or sheet has been laundered;

36                   (4) Anyone who has any infectious, contagious, or communicable

1 disease must not be employed. Any employee with such a disease must be  
 2 immediately relieved from duty;

3 (5) An office, school, or clinic must be equipped with a massage  
 4 table or tables, ~~to measure twenty-five inches to thirty-one inches (25"-31")~~  
 5 ~~wide, twenty-four inches to twenty-seven inches (24"-27") high, and sixty~~  
 6 ~~inches to seventy-two inches (60"-72") long, or equipped with such minimal~~  
 7 ~~equipment as the board may require determined upon the type of practice and/or~~  
 8 a massage chair or chairs, and/or equipped with such standard equipment  
 9 dictated by the practice engaged in as defined in §17-86-102;

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

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

14 (b) Failure to comply with any of the requirements as set forth by this  
 15 ~~chapter~~ section will be grounds for suspension or revocation of license."  
 16

17 SECTION 9. Arkansas Code 17-86-303 is amended to read as follows:

18 "17-86-303. Massage therapist.

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

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

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

28 (3) Present a high school diploma, graduate equivalency diploma,  
 29 or college transcript and credentials issued by a recognized accredited  
 30 massage therapy school or a like institution with no less than five hundred  
 31 (500) in-classroom hours;

32 (4) Pass a demonstrative and written examination conducted by and  
 33 under the supervision of the board in the art of massage therapy as defined in  
 34 §17-86-102(1) or meet reciprocity requirements as provided in §17-86-308;

35 (5) Furnish a certificate of physical examination signed by a  
 36 regularly practicing physician, declaring such person to be free from any

1 contagious, infectious, or communicable disease. Such examination must have  
2 taken place, or a certificate must have been issued, within the preceding six  
3 (6) months; and

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

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

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

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

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

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

15 (c) Any person who attempts to procure or does procure a license in  
16 violation of the provisions of this section shall be subject to the penalties  
17 provided for in §17-86-103."

18

19 SECTION 10. Arkansas Code 17-86-304 is amended to read as follows:

20 "17-86-304. Master massage therapist.

21 (a) Any person who ~~meets the requirements as set forth in §17-86-303~~  
22 who holds a certificate of registration, as a massage therapist, issued by the  
23 board who submits evidence satisfactory evidence to the board that he or she  
24 has been engaged completed in the practice of massage therapy with a total of  
25 five hundred (500) in-classroom hours approved by the board, and who meets the  
26 requirements stated in §17-86-102(4), shall be ~~eligible~~ entitled to be  
27 upgraded to master massage therapist.

28 (b) Fees are as follows:

29 (1) Registration fee..... \$75.00

30 (2) Annual renewal fee..... 40.00"

31

32 SECTION 11. Arkansas Code 17-86-305 is amended to read as follows:

33 "17-86-305. Massage therapy instructor.

34 (a) ~~Any massage therapist who meets the requirements as set forth in~~  
35 17-86-303 Any person who holds a certificate of registration as a master  
36 massage therapist issued by the board, who submits satisfactory evidence to

1 the board that he or she has successfully completed ~~a minimum of seven hundred~~  
2 ~~fifty (750) in-classroom hours and who has no less than six (6) years of~~  
3 ~~practice~~ and meets the requirements stated in § 17-86-102(5) shall be entitled  
4 to be ~~registered as a~~ upgraded to massage therapy instructor.

5 (b) Fees are as follows:

- 6 (1) Registration fee.....\$75.00
- 7 (2) Annual renewal fee .....45.00"

8  
9 SECTION 12. Arkansas Code 17-86-306 is amended to read as follows:

10 "17-86-306. Massage therapy school.

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

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

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

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

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

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

31 (1) ~~Two hundred (200)~~ One hundred twenty-five (125) hours of  
32 anatomy and physiology;

33 (2) ~~Two hundred (200)~~ Two hundred seventy-five (275) hours of  
34 technique;

35 (3) Twenty-five (25) hours of hydrotherapy, electrotherapy, and  
36 heliotherapy;

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

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

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

6 (f)(1) The fee for establishing a school is ~~seven hundred fifty dollars~~  
 7 ~~(\$750)~~ eight hundred fifty dollars (\$850). The fee for establishing a  
 8 satellite school is four hundred twenty-five dollars (\$425).

9 (2) The initial inspection fee is one hundred dollars (\$100).  
 10 The initial inspection fee per each satellite school is one hundred dollars  
 11 (\$100).

12 (3) The annual renewal and inspection fee is one hundred dollars  
 13 (\$100). The annual renewal and inspection fee per each satellite school is one  
 14 hundred dollars (\$100)."

15  
 16 SECTION 13. Arkansas Code 17-86-307 is amended to read as follows:

17 "17-86-307. Massage therapy office or clinic.

18 (a) No person may establish, maintain, or operate a massage therapy  
 19 office or clinic until the address and telephone number of such office or  
 20 clinic has been ~~registered with~~ supplied to the board.

21 (b) ~~An office or clinic may be registered upon presenting evidence~~  
 22 ~~satisfactory to the board that the office or clinic complies with the~~  
 23 ~~provisions of this chapter and the rules and regulations promulgated~~  
 24 ~~thereunder~~ In the event a massage therapy clinic or office moves to a new  
 25 location or changes its phone number, the new address and/or phone number will  
 26 be immediately submitted to the board in writing."

27  
 28 SECTION 14. Arkansas Code 17-86-308 is amended to read as follows:

29 "17-86-308. Reciprocity.

30 (a) Any person who has been licensed to practice anything required to  
 31 be licensed under this chapter in any other state or territory which has or  
 32 maintains a standard of practice which is substantially the same as that  
 33 maintained in this state, and which administers both a written and practical  
 34 licensing examination, may, within the discretion of the board, be granted a  
 35 license to practice in this state without being required to take an  
 36 examination, if such person:

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

4           (2) Is a person of good moral character and of professional  
 5 attainments; and

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

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

11

12           SECTION 15. Arkansas Code 17-86-309 is amended to read as follows:

13           "17-86-309. Renewals - Inactive list.

14           (a)(1)(A) Each certificate, for massage therapists, master massage  
 15 therapists, massage therapy instructors, and massage schools, shall be valid  
 16 for a period of one (1) year and shall expire on June 30 of each year,  
 17 whereupon a renewal certificate may be issued upon submission of completed  
 18 license renewal application with payment of the fee(s) prescribed for class of  
 19 certification.

20                           (B) Each renewal for massage therapists, master massage  
 21 therapists and massage therapy instructors, shall be accompanied by proof of  
 22 no less than three (3) in-classroom hours of continuing education which has  
 23 been approved by the board and a physicians statement, issued during the  
 24 preceding six (6) months, declaring the applicant free from any contagious,  
 25 infectious, or communicable disease.

26                           (C) Each renewal for a massage school must be accompanied  
 27 by a copy of a satisfactory board inspection issued during the preceding six  
 28 (6) months.

29           (2)(A) Penalty for late renewal, which begins July 1, for massage  
 30 therapist, master massage therapists, massage therapy instructors, and massage  
 31 schools, is five dollars (\$5.00) per month, and is in addition to current  
 32 renewal fee, total penalty not to exceed seventy-five dollars (\$75.00), with  
 33 any increment of a month counting as a full month.

34                           (B) The secretary-treasurer of the board shall issue  
 35 current license upon receipt of the delinquent application, all renewal fees,  
 36 penalties and required documentation.

1           (3) Re-examination at the fee prescribed in §17-86-303(b)(1)(C),  
 2 full penalty of seventy-five dollars (\$75.00), and current renewal fee  
 3 according to level of certification held by massage therapists, master massage  
 4 therapists, and massage therapy instructors prior to delinquent renewal, will  
 5 be required for renewal after a period of three (3) years delinquency and upon  
 6 successful examination completion, license reinstatement will be at  
 7 certification level held prior to delinquency.

8           (b)(1) Those massage therapists, master massage therapists, and massage  
 9 therapy instructors who wish to put their active registration on the inactive  
 10 list, remaining there for a period not to exceed three (3) years before  
 11 returning to active practice, may do so without reexamination. After three  
 12 (3) years, those who return to active practice will be reexamined at the  
 13 examination fee prescribed in ~~this chapter~~ §17-86-303(b)(1)(C) and upon  
 14 successful examination completion and payment of the current renewal fee,  
 15 licensed according to the certification held at the time they are placed on  
 16 the inactive list.

17           (2) The fee for placement on the inactive list is ten dollars  
 18 (\$10.00) each year."

19

20           SECTION 16. Arkansas Code 17-86-310 is amended to read as follows:

21           "17-86-310. Display of certificate.

22           Each license certificate shall be conspicuously displayed in the place  
 23 where the certificate holder engages in the practice of massage therapy, ~~the~~  
 24 ~~instruction of massage therapy, or in the operation of a school, clinic, or~~  
 25 ~~office or instruction within a school, and school registration certificates~~  
 26 shall be conspicuously displayed in the operation of a school. A duplicate  
 27 certificate may be obtained for a fee of five dollars (\$5.00)."

28

29           SECTION 17. Arkansas Code 17-86-311 is amended to read as follows:

30           "17-86-311. Revocation, suspension, or denial.

31           (a) The board may deny, suspend, or revoke a certificate of  
 32 registration upon any one (1) of the following grounds:

33           (1) Conviction of, or finding of guilt, or entry of a plea of  
 34 guilty or nolo contendere to, a felony or prostitution, as certified by the  
 35 court of conviction;

36           (2) Malpractice or gross incompetency;

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

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

5 (5) Serving, or having a permit to serve, alcoholic beverages at  
 6 the office, clinic, or school;

7 (6) Engaging in moral turpitude, or immoral ~~Immoral~~ or  
 8 unprofessional conduct;

9 (7) Failure to comply with any valid regulation or order of the  
 10 board;

11 (8) Invasion of the field of practice of any profession for which  
 12 a license is required, or the diagnosis of ailments, diseases, or injuries of  
 13 human beings;

14 (9) Failure of any licensee to comply with the provisions of this  
 15 chapter;

16 (10) Failure to have licensed personnel to perform massage  
 17 therapy techniques in his or her office, clinic, or school; or

18 (11) Failure of any licensee to renew his or her license ~~or~~  
 19 licenses in accordance with §17-86-309.

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

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

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

31

32 SECTION 18. Arkansas Code 17-86-312 is amended to read as follows:

33 "17-86-312. Fees.

34 All registration fees and other fees due the board shall be paid in  
 35 accordance with the provisions of this chapter and all other laws and  
 36 regulations of this state."

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SECTION 19. Arkansas Code Title 17, Chapter 86, Subchapter 3 is amended by adding the following new section to read as follows:

"17-86-313. Grandfather clause and ability to upgrade status.

(a)(1) In the event the qualifications for a specific license are increased or changed, a person holding a particular license from the board may continue to hold that license or may upgrade from massage therapist to master massage therapist or from master massage therapist to massage therapy instructor, without meeting current requirements for the particular license such person held at the time of the increase or change.

(2) It is the express intent of the legislature that in the event the qualifications for a specific license are increased or changed, that those persons who hold said license(s) will be able to hold that specific license or upgrade licensure status without completing current requirements for the license held at the time of said increase or change."

SECTION 20. 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 21. 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 22. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED:3-26-97