

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.

Act 1305 of the Regular Session

1 State of Arkansas As Engrossed: H3/17/09 H3/20/09 H3/24/09 S4/3/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

HOUSE BILL 1951

4

5 By: Representative Pyle

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7

8

For An Act To Be Entitled

9

AN ACT TO AMEND VARIOUS PROVISIONS OF THE MESSAGE  
THERAPY ACT; AND FOR OTHER PURPOSES.

10

11

12

Subtitle

13

TO AMEND VARIOUS PROVISIONS OF THE  
MESSAGE THERAPY ACT.

14

15

16

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

18

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

20

17-86-102. Definitions.

21

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

22

(1) "Board" means the Arkansas State Board of Massage Therapy;

23

(2) "Licensee" means any individual licensed under this chapter;

24

(3)(A) "Massage therapist" means a person who has:

25

(i) earned ~~earned~~ Earned a diploma from a board-accepted school

26

of massage therapy;

27

(ii) who has passed ~~who has passed~~ Passed an examination required by the

28

~~board,~~ Arkansas State Board of Massage Therapy; and

29

(iii) who has become ~~who has become~~ Become licensed and registered to

30

practice massage therapy ~~as defined in subdivision (4) of this section.~~

31

(B) "Massage therapist" includes a person who has previously

32

obtained the massage therapist license under prior state law.

33

~~(B) Massage therapists~~ (C) A massage therapist may:

34

(i) instruct ~~instruct~~ Instruct board-approved continuing education

35

programs; and



1 (ii) Assist in the instruction of the procedures defined  
2 in subdivisions (3)(A)-(C) of this section under the direct supervision of a  
3 massage therapy instructor or master massage therapist ~~assist in the instruction of~~  
4 ~~the procedures defined in subdivisions (4)(A)-(C) of this section.~~

5 ~~(C) A massage therapist may also mean a person who had~~  
6 ~~previously obtained the massage therapist license under prior state law;~~

7 (4)(A) "Massage therapy" means ~~to engage in the practice of any of the~~  
8 ~~following procedures:~~

9 ~~(A) All massage therapy techniques and procedures, either hands-~~  
10 ~~on or with mechanical devices;~~

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

12 ~~(C) Therapeutic application of hot or cold packs;~~

13 ~~(D) Hydrotherapy techniques;~~

14 ~~(E) Heliotherapy;~~

15 ~~(F) Electrotherapy; and~~ the treatment of soft tissues,  
16 which may include skin, fascia, and muscles and their dysfunctions for  
17 therapeutic purposes of establishing and maintaining good physical condition,  
18 comfort, and relief of pain.

19 (B) "Massage therapy" is a health care service that  
20 includes gliding, kneading, percussion, compression, vibration, friction,  
21 nerve strokes, and stretching the tissue.

22 (C) "Massage therapy" also means to engage in the practice  
23 of any of the following procedures:

24 (i) Massage therapy techniques and procedures,  
25 either hands-on or with mechanical devices;

26 (ii) Therapeutic application and use of oils, herbal  
27 or chemical preparations, lubricants, nonprescription creams, lotions,  
28 scrubs, powders, and other spa services;

29 (iii) Therapeutic application of hot or cold packs;

30 (iv) Hydrotherapy techniques;

31 (v) Heliotherapy, which may include mechanical devices,  
32 heat lamps, and other devices;

33 (vi) Electrotherapy; and

34 ~~(G)(vii)~~ Any hands-on bodywork techniques and procedures  
35 rising to the level of the techniques and procedures intended to be regulated under  
36 this chapter and not covered under specific licensing laws of other boards;

1           (5) “Massage therapy clinic” means a clinic, ~~or place, where there are~~  
 2 ~~one (1) or more licensees practicing massage therapy premises, building, or part of~~  
 3 a building in which a branch or any combination of branches of massage therapy or  
 4 the occupation of a massage therapist is practiced;

5           (6)(A) “Massage therapy instructor” means a person who:

6                   ~~(i) Is licensed and registered as a master massage~~  
 7 ~~therapist;~~

8                   ~~(ii)(i) Before July 1, 2010, has~~ ~~Has~~ completed no  
 9 fewer than two hundred fifty (250) hours of practical experience as a master  
 10 massage therapist, which may be gained in part or in whole as an assistant to  
 11 an instructor in a massage school or may be gained in part or in whole as a  
 12 directed instructor in a massage school and has completed no less than two  
 13 hundred fifty (250) continuing education hours as approved by the board; ~~and~~

14                   ~~(iii)(ii) On or after July 1, 2010, has been an~~  
 15 active and practicing licensee and registered as a master massage therapist  
 16 for a period of not less than three (3) years preceding the application for  
 17 an upgrade to massage therapy instructor;

18                   ~~(iii) On or after July 1, 2010, in~~ ~~In~~ addition to  
 19 ~~that~~ the experience under subdivision (6)(A)(i) of this section, has  
 20 completed no fewer than two hundred fifty (250) continuing education hours as  
 21 approved by the board as a licensed master massage therapist; and

22                   ~~(iv) who is~~ Is determined by the board to be qualified to  
 23 be licensed and registered to practice massage therapy ~~as defined in subdivision~~  
 24 ~~(4) of this section.~~

25                   (B) “Massage therapy instructor” includes a person who has  
 26 previously obtained the massage therapy instructor license under prior state law.

27                   ~~(B)(C)~~ (C) Massage therapy instructors may:

28                           (i) Instruct board-approved continuing education programs;

29                           (ii) Instruct any of the procedures in subdivision (4) of  
 30 this section; and

31                           (iii) Instruct basic curricula in a board-registered  
 32 massage therapy school as required by § 17-86-306(e);

33                   ~~(C) “Massage therapy instructor” may also mean a person who had~~  
 34 ~~previously obtained the massage therapy instructor license under prior state law;~~

35           (7) “Massage therapy school” means a registered and licensed facility  
 36 ~~which~~ that meets and follows the required educational standards as established by §

1 17-86-306 and all pertinent rules ~~and regulations~~ established by the board; and

2 (8)(A) "Master massage therapist" means a person who:

3 (i) ~~Is a licensed and registered massage therapist who has~~  
4 ~~completed no fewer than two hundred fifty (250) hours of practical experience as a~~  
5 ~~massage therapist, which may be gained in part or in whole as an assistant to an~~  
6 ~~instructor in a massage school~~ Before July 1, 2010, is a licensed and registered  
7 massage therapist who has completed no fewer than two hundred fifty (250) hours of  
8 practical experience as a massage therapist, which may be gained in part or in  
9 whole as an assistant to an instructor in a massage school and has completed no  
10 less than one hundred twenty-five (125) continuing education hours as approved by  
11 the board;

12 (ii) On or after July 1, 2010, has been an active  
13 and practicing licensee and registered as a massage therapist for a period of  
14 not less than two (2) years preceding the application for an upgrade to  
15 master massage therapist;

16 ~~(ii)-(iii)~~ (iii) On or after July 1, 2010, in ~~In~~ addition to  
17 ~~that~~ the experience under subdivision (8)(A)(i) of this section, has completed no  
18 fewer than one hundred twenty-five (125) continuing education hours as approved by  
19 the board; and

20 ~~(iii)-(iv)~~ (iv) Is determined by the board to be qualified to be  
21 licensed and registered to practice massage therapy ~~as defined in subdivision (4)~~  
22 ~~of this section.~~

23 (B) "Master massage therapist" includes a person who had  
24 previously obtained the master massage therapist license under a prior state law.

25 ~~(B)-(C)~~ (C) Master massage therapists may:

26 (i) Instruct board-approved continuing education programs;  
27 (ii) Instruct any of the procedures in subdivision (4) of  
28 this section; and

29 (iii) Instruct, as directed by a massage therapy  
30 instructor, basic curricula in a board-registered massage therapy school as  
31 required by § 17-86-306(e).

32 ~~(C)~~ ~~A master massage therapist may also mean a person who had~~  
33 ~~previously obtained the master massage therapist license under a prior state law;~~  
34 ~~and~~

35 (9) "This chapter" means the "Massage Therapy Act", § 17-86-101 et  
36 seq.

1  
2           SECTION 2. Arkansas Code 17-86-201(a), concerning the Arkansas State  
3 Board of Massage Therapy, is amended to read as follows:

4           (a)(1) The Arkansas State Board of Massage Therapy shall consist of  
5 seven (7) members, who shall be appointed by the Governor for a term of three  
6 (3) years.

7           (2)(A) ~~Four (4)~~ Six (6) of the members shall be licensees under  
8 this chapter. These members shall be full voting members.

9           (B) Only two (2) of the members shall be owners of a  
10 massage therapy school.

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

14           ~~(4) One (1) member, to represent the public, shall not be~~  
15 ~~engaged in or retired from the practice of massage therapy. This member shall~~  
16 ~~be a full voting member.~~

17           ~~(5) One (1) member, to represent the medical field, shall not be~~  
18 ~~engaged in or retired from the practice of massage therapy. This member shall~~  
19 ~~be a full voting member and shall be a person exempted from the provisions of~~  
20 ~~this law under § 17-86-301(b)(1).~~

21           ~~(6)(A)(4)(A) Board members who are sitting in the board~~  
22 ~~positions described in this subsection on August 1, 1997, will remain as~~  
23 ~~members of the board until the term of that member's appointment expires or~~  
24 ~~until that member is removed from the board or until that member resigns from~~  
25 ~~the board or dies before the term of his or her appointment expires. A board~~  
26 member shall begin his or her appointed term on July 1, 2009.

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

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

33           (D)(i) The initial terms of the appointed members of the  
34 board shall be determined by lot so that three (3) members have a three-year  
35 term, two (2) members have a two-year term, and two (2) members have a one-  
36 year term.

1 (ii) A person who has previously served on the board  
2 shall not be eligible for an initial appointment.

3 (5) Board members shall not serve more than six (6) consecutive years  
4 on the board.

5  
6 SECTION 3. Arkansas Code § 17-86-203 is amended to read as follows:

7 17-86-203. Powers and duties.

8 (a)(1) The Arkansas State Board of Massage Therapy ~~is empowered to~~ may  
9 promulgate and enforce reasonable rules ~~and regulations~~ for the purpose of carrying  
10 out ~~the provisions of~~ this chapter.

11 (2) ~~The board~~ Arkansas State Board of Massage Therapy shall follow ~~the~~  
12 ~~provisions found in~~ the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,  
13 as to “rule” and “rule-making” definitions and for the adoption and filing of rules  
14 ~~and regulations.~~

15 (3) For the purpose of governing health and safety, the rules shall  
16 meet minimum requirements of the law and rules of the State Board of Health.

17 (b)(1)(A) ~~It shall also be the duty of the board to~~ The Arkansas State Board  
18 of Massage Therapy shall inspect or cause to be inspected at least ~~once~~ one (1)  
19 time each year all massage therapy schools operated in this state.

20 (B) ~~The board~~ Arkansas State Board of Massage Therapy and its  
21 agents and employees ~~shall have and they are given the authority to~~ may enter and  
22 inspect any massage therapy clinic or school during any operating hours of the  
23 business.

24 (2) ~~The board~~ Arkansas State Board of Massage Therapy and its agents  
25 and employees shall not request or be granted permission to enter any room of a  
26 massage therapy clinic or school in which a client is receiving treatment from a  
27 licensee under this chapter.

28 (c) ~~The board~~ Arkansas State Board of Massage Therapy may hold licensing  
29 examinations from time to time at ~~such a~~ a place or places as the ~~board~~ Arkansas  
30 State Board of Massage Therapy may designate.

31 (d)(1) The Arkansas State Board of Massage Therapy may require each original  
32 applicant and each upgrade applicant for a license issued by the Arkansas State  
33 Board of Massage Therapy to apply to the Identification Bureau of the Department of  
34 Arkansas State Police for a state and federal criminal background check to be  
35 conducted by the Identification Bureau of the Department of Arkansas State Police  
36 and the Federal Bureau of Investigation;

1           (2) The state and federal criminal background check shall conform to  
2 applicable federal standards and shall include the taking of fingerprints;

3           (3) The applicant shall sign a release of information to the Arkansas  
4 State Board of Massage Therapy and shall be responsible for the payment of any fees  
5 associated with the state and federal criminal background check;

6           (4)(A) Each applicant who has resided outside of Arkansas shall  
7 provide a state and federal criminal background check, including the taking of  
8 fingerprints, issued by the state or states in which the applicant resided.

9           (B) Results shall be sent directly to the Arkansas State Board  
10 of Massage Therapy from the agency performing the state and federal criminal  
11 background check.

12           (e)(1) For purposes of this section, an applicant is not eligible to receive  
13 or hold a license issued by the Arkansas State Board of Massage Therapy if the  
14 applicant has pleaded guilty or nolo contendere to or been found guilty of a felony  
15 or class A misdemeanor or any offense involving fraud, theft, or dishonesty.

16           (2) A provision of this section may be waived by the Arkansas State  
17 Board of Massage Therapy if:

18           (A) The conviction is for a Class A misdemeanor and:

19           (i) The completion of the applicant's sentence and  
20 probation or completion of the applicant's sentence or probation of the offense is  
21 at least three (3) years from the date of the application; and

22           (ii) The applicant has no criminal convictions during the  
23 three-year period; or

24           (B) The conviction is for a felony of any classification and:

25           (i) The completion of the applicant's sentence and  
26 probation or the completion of the applicant's sentence or probation of the offense  
27 is at least five (5) years from the date of the application; and

28           (ii) The applicant has no criminal convictions during the  
29 five-year period.

30           (f) The Arkansas State Board of Massage Therapy may permit an applicant to  
31 be licensed regardless of having been convicted of an offense listed in this  
32 section, upon making a determination that the applicant does not pose a risk of  
33 harm to any person served by the Arkansas State Board of Massage Therapy.

34           (g) In making a determination under subsection (f) of this section, the  
35 Arkansas State Board of Massage Therapy may consider the following factors:

36           (1) The nature and severity of the crime;

- 1           (2) The consequences of the crime;
- 2           (3) The number and frequency of crimes;
- 3           (4) The relationship between the crime and the health, safety, and  
4 welfare of persons served by the agency, such as:
  - 5                   (A) The age and vulnerability of victims of the crime;
  - 6                   (B) The harm suffered by the victim; and
  - 7                   (C) The similarity between the victim and persons served by the  
8 Arkansas State Board of Massage Therapy;
  - 9                   (5) The time elapsed without a repeat of the same or similar event;
  - 10                  (6) Documentation of successful completion of training or  
11 rehabilitation pertinent to the incident; and
  - 12                  (7) Any other information that bears on the applicant's ability  
13 to care for others or other relevant information.
  - 14           (h) If the board waives the provisions of subsection (e) of this section,  
15 the board shall submit the reasons for waiving this provision in writing and the  
16 determination and reasons shall be made available to review.

17  
18           SECTION 4. Arkansas Code § 17-86-301, regarding the registration requirement  
19 for massage therapists, is amended to add a new subsection (c) to read as follows:

20           (c)(1) A licensee shall notify the board in writing of any change of name,  
21 address, phone number, or place of employment.

22           (2) If a name change is requested, a new license shall be issued in  
23 the new name at the next renewal date or immediately for a fee not to exceed twenty  
24 dollars (\$20.00) for printing of a new license.

25           (3) Valid government issued photo identification is required for each  
26 name change request.

27  
28           SECTION 5. Arkansas Code § 17-86-303 is amended to read as follows:  
29 17-86-303. Massage therapist.

30           (a) In order to be licensed as a massage therapist, the person seeking  
31 licensure shall:

32                   (1) Furnish to the Arkansas State Board of Massage Therapy  
33 satisfactory proof that he or she is eighteen (18) years of age or older and of  
34 good moral character;

35                   (2) Make oath that he or she has not been convicted of or found guilty  
36 of or entered a plea of guilty or nolo contendere to any offense that would



1 constitute a felony or constitute the offense of prostitution, either in this state  
2 or the United States, and submit a signed authorization to investigate and have  
3 information released to the board;

4 (3) Present a high school diploma, graduate equivalency diploma, or  
5 college transcript and credentials issued by a board-accepted massage therapy  
6 school or a like institution with no fewer than five hundred (500) in-classroom  
7 hours of instruction;

8 (4) Furnish to the board satisfactory proof of passing an examination  
9 recognized and approved by the board;

10 (5) ~~Present a physician's statement declaring such a person free from~~  
11 ~~infectious tuberculosis and any disease or condition which could pose a health risk~~  
12 ~~to the public in the practice of massage therapy. Such an examination must have~~  
13 ~~taken place within the preceding twelve (12) months; and~~ Present a negative test  
14 for tuberculosis. The tuberculosis test must be current at the time of licensure;  
15 and

16 (6) Pay the specified fees, which shall accompany a completed  
17 notarized application to the board.

18 (b)~~(1)~~ Fees are as follows:

19 "~~(A)~~(1) Registration Application fee . . . . . \$75.00

20 ~~(B)~~(2) Annual renewal Original license fee . . . . . 30.00

21 80.00

22 ~~(C)~~(3) Biennial renewal . . . . . 80.00

23 (4) Examination fee or reexamination fee . . . . . 25.00

24 (5) Duplicate license fee . . . . . 10.00

25 (6) Pocket card fee not to exceed ten dollars (\$10.00)

26 ~~(2) Should reexamination be necessary, the registration fee of~~  
27 ~~seventy five dollars (\$75.00) will be held until after the reexamination is taken.~~  
28 ~~Should the reexamination qualifications not be met, the board will refund the~~  
29 ~~seventy five dollars (\$75.00) but not the examination and reexamination fees.~~

30 (c) A person shall not practice massage therapy until his or her official  
31 license has been received from the board.

32 (d) ~~Any~~ A person who attempts to procure or does procure a license in  
33 violation of this section shall be subject to the penalties provided for in § 17-  
34 86-103.

35  
36 SECTION 6. Arkansas Code § 17-86-304 is amended to read as follows:

1 17-86-304. Master massage therapist.

2 (a) Any person who holds a license as a massage therapist issued by the  
3 Arkansas State Board of Massage Therapy and who submits satisfactory evidence to  
4 the board that he or she has completed and meets the requirements stated in § 17-  
5 86-102(3) ~~shall be~~ is entitled to be upgraded to master massage therapist.

6 (b) Each application for upgrade to master massage therapist shall be  
7 considered a new application for purposes of criminal background checks.

8 (c) Fees are as follows:

- 9 (1) ~~Registration~~ Application fee . . . . . \$75.00
- 10 (2) ~~Annual renewal~~ Original license fee . . . . . ~~40.00~~ 80.00
- 11 (3) Biennial renewal fee . . . . . 80.00
- 12 (4) Duplicate license fee . . . . . 10.00
- 13 (5) Pocket card fee not to exceed ten dollars (\$10.00)

14  
15 SECTION 7. Arkansas Code § 17-86-305 is amended to read as follows:

16 17-86-305. Massage therapy instructor.

17 (a) Any person who holds a license as a master massage therapist issued by  
18 the Arkansas State Board of Massage Therapy and who submits satisfactory evidence  
19 to the board that he or she has successfully completed and meets the requirements  
20 stated in § 17-86-102(8) shall be entitled to be upgraded to massage therapy  
21 instructor.

22 (b) Each application for upgrade to massage therapy instructor is considered  
23 a new application for purposes of criminal background checks.

24 (c) Fees are as follows:

- 25 (1) ~~Registration fee~~ Application fee . . . . . \$75.00
- 26 (2) ~~Annual renewal~~ Original license fee . . . . . ~~45.00~~ 80.00
- 27 (3) Biennial renewal fee . . . . . 80.00
- 28 (4) Duplicate license fee . . . . . 10.00
- 29 (5) Pocket card fee not to exceed ten dollars (\$10.00)

30  
31 SECTION 8. Arkansas Code § 17-86-306 is amended to read as follows:

32 17-86-306. Massage therapy school.

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

1 (b) ~~No school shall~~ A massage therapy school shall not be approved by the  
2 board or granted a certificate of licensure until ~~such~~ the appropriate application  
3 and inspection forms as prescribed by the board have been completed and approved  
4 and the licensure fee has been paid.

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

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

11 (d)(1) Schools shall require a physical examination by a medical doctor that  
12 the student poses no health risk to give and receive massage and a tuberculosis  
13 test verifying that the licensee is free from contagious tuberculosis.

14 (2) The school shall be required to maintain proof of the examination  
15 and the tuberculosis test and furnish ~~such~~ additional information and documents as  
16 may be required by the board or its appointee during the inspection.

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

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

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

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

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

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

29 (6) Twenty-five (25) hours of related subjects as approved by the  
30 board.

31 (f)(1) The fee for establishing a school ~~is eight hundred fifty dollars~~  
32 ~~(\$850)~~ shall not exceed one thousand dollars (\$1,000). ~~The fee for establishing a~~  
33 ~~satellite school is four hundred twenty five dollars (\$425).~~

34 (2) The initial inspection fee ~~is one hundred dollars (\$100).~~ ~~The~~  
35 ~~initial inspection fee per each satellite school is one hundred dollars (\$100)~~ for  
36 each school shall not exceed one hundred dollars (\$100).

1           (3) The annual renewal and inspection fee ~~is one hundred dollars~~  
2 ~~(\$100). The annual renewal and inspection fee per each satellite school is one~~  
3 ~~hundred dollars (\$100) for each school shall not exceed one hundred dollars (\$100).~~

4           (g) The curriculum established in subsection (e) of this section shall be  
5 followed for all massage therapy programs.

6  
7           SECTION 9. Arkansas Code § 17-86-308 is amended to read as follows:

8           17-86-308. Reciprocity.

9           (a) The Arkansas State Board of Massage Therapy shall have the discretion to  
10 may enter into reciprocal relations with other states and territories whose  
11 licensure requirements are substantially the same as those provided in this  
12 chapter.

13           (b)(1) An out-of-state applicant holding a current massage therapy license  
14 issued by another state and after receiving an Arkansas massage therapy license may  
15 apply for an upgrade to master massage therapist or massage therapy instructor by  
16 providing appropriate continuing education credits and experience gained before  
17 Arkansas licensure for board approval.

18           (2) An upgrade request shall be made by submitting a complete application  
19 package and paying the fees required by this chapter.

20  
21           SECTION 10. Arkansas Code § 17-86-309 is amended to read as follows:

22           17-86-309. Renewals – Inactive list – Continuing education.

23           (a)(1) Each license for licensees ~~and massage schools shall be is~~ valid for  
24 a period of ~~one (1) year~~ two (2) years and ~~shall expire~~ expires on ~~June 30 of each~~  
25 ~~year~~ on the birthdate of the licensee in the biennial renewal year, whereupon a  
26 renewal license may be issued upon submission of completed license renewal  
27 application with payment of the fee or fees prescribed for class of certification.

28           (2) ~~Prior to July 1, 1999, each renewal for licensees shall be~~  
29 ~~accompanied by proof of no fewer than three (3) in-classroom hours of continuing~~  
30 ~~education which has been approved by the Arkansas State Board of Massage Therapy~~  
31 Each license for a massage therapy school is valid for a period of one (1) year and  
32 expires on June 30 of each year, whereupon a renewal license may be issued upon  
33 submission of a completed license renewal application with payment of the fee or  
34 fees prescribed for class of certification.

35           (3) Every license for licensees, both active and inactive, shall  
36 expire on the birthdate of the licensee in the biennial renewal year.

1           ~~(3)~~(4) Beginning July 1, 1999, each Each renewal for licensees shall  
2 be accompanied by proof of no fewer than ~~six (6)~~ eighteen (18) hours of continuing  
3 education ~~which~~ that have been approved by the Arkansas State Board of Massage  
4 Therapy. A licensee may carry over no more than ~~six (6)~~ additional hours of  
5 continuing education from the previous licensing period.

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

9           (b) The board shall have the authority to levy penalties for late renewals  
10 by licensees which begin July 1 in the amount of twenty five dollars (\$25.00) per  
11 month or portion thereof for a period not to exceed ~~six (6)~~ months A renewal  
12 application for a licensee is due on or before the first day of the month preceding  
13 the month of the birthdate of the licensee in the biennial renewal year.

14           (c) A renewal application for a licensee postmarked after the first day of  
15 the month preceding the month of the birthdate of the licensee of the biennial  
16 renewal year shall be levied a late penalty fee not to exceed twenty-five dollars  
17 (\$25.00).

18           (d)(1) An application for renewal postmarked after the birthdate of the  
19 licensee in the biennial renewal year will be treated as an application to renew an  
20 expired license.

21           (2)(A) A license is expired if the application is postmarked after the  
22 birthdate of the licensee in the biennial renewal year.

23           (B) Before the board issues a new license to an applicant whose  
24 license has expired under subdivision (d)(2)(A) of this section, the applicant  
25 shall:

26                           (i) Submit a new application that requires the applicant  
27 to meet current requirements; and

28                           (ii) Successfully complete an examination recognized by  
29 the board.

30           ~~(e)~~(e) The board shall issue a license effective as of the date of receipt  
31 of the late application and all renewal fees, penalties, and required  
32 documentation.

33           ~~(d)~~(f)(1) Any individual licensee who is not currently in practice and who  
34 wishes to place his or her license on the inactive list may remain on this list for  
35 a period not to exceed ~~three (3)~~ four (4) years without reexamination.

36           (2) After such time the time allowed under subdivision (f)(1) of this

1 section, all inactive licensees ~~will be required to~~ shall meet current requirements  
2 for licensure and must successfully complete an examination recognized by the board  
3 ~~prior to~~ before resuming the active practice of massage therapy.

4 ~~(e)~~(g) Any individual licensee who has been placed on the inactive list for  
5 fewer than ~~three (3)~~ four (4) years and who wishes to reactivate his or her license  
6 ~~must~~ shall follow the procedures for license renewal as provided for in this  
7 section, present satisfactory evidence of completion of continuing education hours  
8 as required by subsection (a) of this section for the inactive period, and pay all  
9 appropriate fees ~~prior to~~ before resuming the active practice of massage therapy.

10 ~~(f)~~(h) The fee for placement on the inactive list ~~is ten dollars (\$10.00)~~  
11 ~~each year~~ shall not exceed eighty dollars (\$80.00) per biennium.

12 (i)(1) A licensee whose massage therapy school license renewal is postmarked  
13 after April 30 of each year shall pay a late fee not to exceed five hundred dollars  
14 (\$500).

15 (2) A massage therapy school license renewal postmarked after June 30  
16 of each year automatically expires.

17 (3) A licensee whose massage therapy school license has expired shall  
18 submit a new application to the board with current requirements and fees.

19 (j)(1) Each application for continuing education programs shall be  
20 accompanied by an application fee not to exceed forty dollars (\$40.00).

21 (2)(A) A licensee residing out-of-state and holding a valid Arkansas  
22 massage therapy license may request board approval of appropriate continuing  
23 education courses otherwise not approved by the board.

24 (B) Courses shall meet similar standards as courses approved by  
25 the board.

26 (C) Proof of residency shall accompany the request.

27  
28 SECTION 11. Arkansas Code § 17-86-310 is amended to read as follows:

29 17-86-310. Display of license.

30 (a) An official license shall be conspicuously and publicly displayed in the  
31 place where the holder engages in the practice of massage therapy or instruction of  
32 massage therapy. ~~Massage therapy school licenses~~ A massage therapy school license  
33 shall be conspicuously displayed in the facility massage therapy school.

34 (b) It is unlawful to tamper with or reduce in size an original massage  
35 therapy license issued by the Arkansas State Board of Massage Therapy.

36 (c) Each license shall provide the correct address of the board.

1  
2 SECTION 12. Arkansas Code § 17-86-311 is amended to read as follows:

3 17-86-311. ~~Revocation, suspension, or denial~~ Disciplinary actions and  
4 penalties.

5 (a) The Arkansas State Board of Massage Therapy may deny, suspend, or  
6 revoke a license upon any one (1) of the following grounds:

7 (1) Conviction of or finding of guilt or entry of a plea of  
8 guilty or nolo contendere to a felony, Class A misdemeanor, or prostitution;

9 (2) Malpractice or gross incompetency;

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

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

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

16 (6) Engaging in moral turpitude or immoral or unprofessional  
17 conduct;

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

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

24 (9) Failure of any licensee to comply with the provisions of  
25 this chapter; or

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

28 (b)(1) The board shall establish by rule the penalty system to be  
29 imposed under this section.

30 (2) Whenever the board finds that the holder of a license,  
31 certificate of registration, or other permit issued by the board is guilty of  
32 a violation of the rules of the board or the laws of the state pertaining to  
33 any occupation, profession, or business licensed or regulated by the board,  
34 the board may impose a penalty on the licensee or permit holder in lieu of  
35 suspension or revocation of license, certificate of registration, or other  
36 permit.

1           (3)(A) Upon imposition of a penalty in lieu of suspension or  
2 revocation of license, certificate of registration, or other permit, the  
3 board may require that the licensee or permit holder pay a penalty to the  
4 board.

5           (B) The license, certificate of registration, or permit  
6 shall be suspended until the penalty is paid.

7           (4)(A) The penalty may be imposed in lieu of revocation or  
8 suspension of a license, certificate, or other permit only if the board  
9 formally finds that the public health, safety, welfare, and morals would not  
10 be impaired and that the payment of the penalty will achieve the desired  
11 disciplinary results.

12           (B) The minimum penalty imposed by the board in lieu of  
13 revocation or suspension of a license, certificate, or other permit shall be  
14 twenty-five dollars (\$25.00) and the maximum penalty one thousand dollars  
15 (\$1,000) per infraction.

16           (C) The authority of the board to impose penalties under  
17 this section is not affected by any other civil or criminal proceeding  
18 concerning the same violation.

19           (D) A person penalized by the board under this chapter may  
20 appeal any order of the board in the manner currently provided by law.

21           (E) In addition to any other sanctions authorized by this  
22 chapter, the board may impose a civil penalty as provided in this subsection  
23 against any unlicensed person, firm, or corporation practicing or offering to  
24 practice any actions requiring licensure under this chapter.

25           (c)(1) The board shall revoke the license of a person who engages in  
26 the practice of massage of the anus or the genital area of another person.

27           (2) The board shall revoke the license of a person who engages  
28 in the practice of massage of the breasts unless the massage therapist:

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

33           (ii) Has received at least forty-eight (48) hours of  
34 continuing education credits in lymphatic massage, myofascial massage, or  
35 oncology massage.

36           (3) A revocation of a license under subdivision (c)(1) and (2)



1 of this section shall be for a period of three (3) years.

2 (d)(1) Charges may be brought by any person, or the board on its own  
3 motion may direct the Executive Director of the Arkansas State Board of  
4 Massage Therapy to prefer charges.

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

8 ~~(e)~~(e) In denying, suspending, or revoking any license, the board  
9 shall afford any party review as provided for in the Arkansas Administrative  
10 Procedure Act, § 25-15-201 et seq., and as otherwise provided by the rules  
11 and regulations of the board.

12  
13 SECTION 13. EMERGENCY CLAUSE. It is found and determined by the General  
14 Assembly of the State of Arkansas that this act is necessary to improve the  
15 operations of the Arkansas State Board of Massage Therapy, to improve the  
16 regulation of the massage therapy industry, and for the immediate protection of the  
17 public. Therefore, an emergency is declared to exist and this act being  
18 immediately necessary for the preservation of the public peace, health, and safety  
19 shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor, the  
22 expiration of the period of time during which the Governor may veto the bill; or

23 (3) If the bill is vetoed by the Governor and the veto is overridden,  
24 the date the last house overrides the veto.

25  
26 /s/ Pyle

27  
28 APPROVED: 4/9/2009  
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