

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H2/24/99 H2/26/99

A Bill

HOUSE BILL 1516

5 By: Representatives Rackley, Elliott
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE
10 TITLE 17, CHAPTER 86 RELATING TO THE AUTHORITY AND
11 RESPONSIBILITY OF THE ARKANSAS STATE BOARD OF MASSAGE
12 THERAPY; AND FOR OTHER PURPOSES. "
13

Subtitle

14 "TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS CODE RELATING TO THE AUTHORITY
16 AND RESPONSIBILITY OF THE ARKANSAS STATE
17 BOARD OF MASSAGE THERAPY. "
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

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

24 "17-86-102. Definitions.

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

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

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

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

32 (C) Therapeutic application of hot or cold packs;

33 (D) Hydrotherapy techniques;

34 (E) Heliotherapy;

35 (F) Electrotherapy; and

36 ~~(G) Reflexology; and~~

1 ~~(H)~~(G) Any hands-on bodywork techniques and procedures
2 rising to the level of the techniques and procedures intended to be regulated
3 under this Chapter and not covered under specific licensing laws of other
4 boards;

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

6 (3) 'Licensee' means any individual licensed under this chapter.

7 ~~(3)~~(4)(A) 'Massage therapist' means a person who has earned a
8 diploma from ~~an accredited~~ a board accepted school of massage therapy, and who
9 has passed ~~the Arkansas State Board of Massage Therapy examination, or who has~~
10 ~~met the reciprocity requirements of § 17-86-308~~ an examination required by the
11 board, and who has become licensed and registered to practice massage therapy
12 as defined in subdivision (1) of this section-;

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

17 (C) A massage therapist may also mean a person who had
18 previously obtained the massage therapist license under prior state law-;

19 ~~(4)~~(5) (A) 'Master massage therapist' means a person who is a
20 licensed and registered massage therapist who has completed no less than two
21 hundred fifty (250) hours of practical experience as a massage therapist, such
22 experience which may be gained in part or in whole as an assistant to an
23 instructor in a massage school, and in addition to that experience, has
24 completed no less than one hundred twenty-five (125) continuing education
25 hours as approved by the board, and who is determined by the board to be
26 qualified to be licensed and registered to practice massage therapy as defined
27 in subdivision (1) of this section-;

28 (B) *Master massage therapists may instruct board-approved*
29 *continuing education programs, and/or instruct any of the procedures in*
30 *subdivision (1) of this section, and/or instruct, as directed by a massage*
31 *therapy instructor, basic curricula in a board-registered massage therapy*
32 *school, as required by § 17-86-306(e)(1)-(6); and*

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

36 ~~(5)~~(6) (A) 'Massage therapy instructor' means a person who is

1 licensed and registered as a master massage therapist who has completed no
 2 less than two hundred fifty (250) hours of practical experience as a master
 3 massage therapist, such experience which may be gained in part or in whole as
 4 an assistant to an instructor in a massage school, or ~~many~~ may be gained in
 5 part or in whole as a directed instructor in a massage school, and in addition
 6 to that experience, has completed no less than two hundred fifty (250)
 7 continuing education hours as approved by the board, and who is determined by
 8 the board to be qualified to be licensed and registered to practice massage
 9 therapy as defined in subdivision (1) of this section;

10 (B) *Massage therapy instructors may instruct board-approved*
 11 *continuing education programs, and/or instruct any of the procedures in*
 12 *subdivision (1) of this section, and/or instruct basic curricula in a board-*
 13 *registered massage therapy school, as required by § 17-86-306(e)(1)-(6);*

14 (C) 'Massage therapy instructor' may also mean a person who
 15 had previously obtained the massage therapy instructor license under prior
 16 state law;

17 ~~(6)(7)~~ 'Massage therapy ~~office or clinic~~' means a clinic or place
 18 where there is one (1) or more ~~massage therapists, master massage therapists,~~
 19 ~~or massage therapy instructors~~ licensees practicing massage therapy;

20 ~~(7)(8)~~ 'Massage therapy school' means a registered and licensed
 21 ~~place of business wherein massage therapy is taught by/or under the~~
 22 ~~supervision and/or direction of a registered massage therapy instructor, and~~
 23 ~~may utilize registered massage therapists as supervised assistants, and/or~~
 24 ~~registered master massage therapists as directed instructors, and/or medical~~
 25 ~~personnel as exempted from this chapter in § 17-86-301(b)(1) as instructors~~
 26 facility which meets and follows the required educational standards as
 27 established by § 17-86-306 and all pertinent rules and regulations established
 28 by the board; and

29 ~~(8)(9)~~ "This chapter" means ~~§ 17-86-101 et seq. Chapter 86 of~~
 30 Title 17 of the Arkansas Code, the 'Massage Therapy Act'.

31
 32 SECTION 2. Arkansas Code 17-86-103 is amended to read as follows:

33 "17-86-103. Penalties.

34 (a) *Any person who shall violate any of the provisions of this chapter*
 35 *shall be found guilty of a misdemeanor and upon conviction shall be punished*
 36 *by imprisonment in the county jail for not more than six (6) months or by a*

1 fine not exceeding one thousand five hundred dollars (\$1,500), or by both fine
2 and imprisonment, at the discretion of the court.

3 (b) It shall be the duty of the prosecuting attorney in the county
4 where violation occurs, upon request by the board, to initiate proper legal
5 proceedings in a court of competent jurisdiction to enforce the provisions of
6 this chapter.

7 (c) The courts of this state having general equity jurisdiction are
8 vested with jurisdiction and power to enjoin the unlawful practice of massage
9 therapy and related techniques in a proceeding by the board, or by any citizen
10 of this state, in the county in which the alleged unlawful practice occurred
11 or in which the defendant resides, or in Pulaski County. The issuance of an
12 injunction shall not relieve a person from criminal prosecution for violation
13 of the provisions of this chapter, but the remedy of injunction shall be in
14 addition to liability to criminal prosecution."

15
16 SECTION 3. Arkansas Code 17-86-201, as amended by Act 250 of 1997, is
17 repealed.

18 ~~17-86-201. Members. [As amended by Acts 1997, No. 250.]~~

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

22 ~~(1) Four (4) members shall be licensed to practice massage~~
23 ~~therapy in this state.~~

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

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

34 ~~(4) One (1) member, to represent the medical field, shall be a~~
35 ~~full voting member, but shall not participate in the grading of examinations,~~
36 ~~and shall be a person exempted from the provisions of this law as listed in §~~

1 ~~17-86-301(b).~~

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

6 ~~(c) No member of the board except the secretary-treasurer, who shall~~
7 ~~receive a salary of no more than six hundred dollars (\$600) per month or in~~
8 ~~accordance with the Department of Finance and Administration guidelines, shall~~
9 ~~be paid or receive a regular salary, but members may receive expense~~
10 ~~reimbursement and stipends in accordance with § 25-16-901 et seq.~~

11
12 SECTION 4. Arkansas Code 17-86-201, as amended by Act 840 of 1997, is
13 amended to read as follows:

14 "17-86-201. Members. ~~[As amended by Acts 1997, No. 840.]~~

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

18 (1) Four (4) members shall be ~~licensed in this state as massage~~
19 ~~therapists, master massage therapists or massage therapy instructors~~ licensees
20 under this chapter. These members shall be full voting members and shall
21 ~~administer and grade examinations.~~

22 (2) One (1) member, to represent ~~the elderly~~ senior citizens,
23 shall be sixty (60) years of age or older and shall not be engaged in or
24 retired from the practice of massage therapy. This member shall be a full
25 voting member.

26 (3) One (1) member, to represent the public, shall not be engaged
27 in or retired from the practice of massage therapy. This member shall be a
28 full voting member.

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

33 (5) Board members who are sitting in the board positions
34 described in subsection (a) of this section on August 1, 1997, will remain as
35 members of the board until the term of such a member's appointment expires, or
36 until such a member is removed from the board, or until such a member resigns

1 from the board, or dies, before the term of their appointment expires.

2 (A) Board members appointed to their positions after August
3 1, 1997, shall be selected in equal apportionment from the congressional
4 districts of the state as provided in § 25-16-801 and shall be subject to
5 confirmation by the Arkansas Senate.

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

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

14 (c)(1) ~~No member of the board except the secretary-treasurer, who shall~~
15 ~~receive a salary of no more than seven hundred fifty dollars (\$750) per month~~
16 ~~or in accordance with the Department of Finance and Administration guidelines,~~
17 ~~shall be paid or receive a regular salary, but members~~ Members shall be paid
18 and receive a fee of no less than fifty dollars (\$50.00) per diem for each day
19 actually engaged in attending board meetings or performing other official
20 duties.

21 (2) All board members shall receive reimbursement for all
22 reasonable and necessary travel at the rate approved for state employees.
23 Lodging and other expenses incurred in the performance of their official
24 duties will also be paid on the approved scale for state employees."
25

26 SECTION 5. Arkansas Code 17-86-202 is amended to read as follows:

27 "17-86-202. Officers and employees.

28 (a)(1) Board officers, elected by the board from among their own
29 members, shall be a president, a vice president and a ~~secretary-treasurer~~
30 secretary.

31 ~~(A) Election of an officer or officers shall take place~~
32 ~~during a regular scheduled board meeting or during a special nonconference~~
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 ~~August 1, 1997, will hold their elected office for the duration of their board~~
7 ~~appointment unless they resign from the office or are removed from the office~~
8 ~~as provided in § 17-86-202(a)(3).~~

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

12 ~~(3)~~(2) Board officers may be removed from their elected offices
13 for failure to fulfill the duties of their respective offices. Removal of such
14 a board member from his or her elected office will be considered in an
15 executive session as provided by § 25-19-106 in the Arkansas Freedom of
16 Information Act of 1967. The executive session will be called by the board
17 during a regular or special non conference call meeting. If a motion to remove
18 such board member from his or her elected office is arrived at in the
19 executive session, members will reconvene, in accordance with § 25-19-106, in
20 the public meeting to vote to remove the board member from his or her elected
21 office.

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

30
31 SECTION 6. 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
34 rules 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 Procedure Act beginning at § 25-15-201 as to 'rule' and 'rule
2 making' definitions, and for the adoption and filing of rules and regulations.

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

8 (2) The board and its agents and employees shall not request or
9 be granted permission to enter any room of a massage therapy ~~office,~~ clinic or
10 school, in which a client is ~~present~~ receiving treatment from a licensee under
11 this chapter.

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

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

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

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

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

27
28 SECTION 7. Arkansas Code 17-86-204 is amended to read as follows:

29 "17-86-204. Records.

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

36 (2) The ~~secretary-treasurer~~ executive director will move, to a

1 separate book and file, the records of all persons who have died, or have let
 2 their licenses lapse for three (3) years, or whose ~~certificates of~~
 3 ~~registration~~ licenses have been suspended or revoked by the board, or
 4 cancelled by the ~~holder of the certificate of registration~~ licensee.

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

12 (c) The original books, records, and papers of the board shall be ~~kept~~
 13 maintained 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. However, licensing exams shall be exempt
 17 from the Arkansas Freedom of Information Act of 1967, beginning at § 25-19-
 18 101."

19
 20 SECTION 8. Arkansas Code 17-86-205 is amended to read as follows:

21 "17-86-205. Disposition of funds.

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

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

32 SECTION 9. Arkansas Code 17-86-301 is amended to read as follows:

33 "17-86-301. Registration required - Exemptions.

34 (a) It shall be unlawful:

35 (1) For any person to use the following titles: 'massage
 36 therapist', 'massage practitioner', 'myotherapist', 'masso therapist',

1 'massage technologist', 'masseur', 'masseuse', 'therapy technologist', 'master
 2 massage therapist', or 'massage therapy instructor', or any derivation of
 3 those titles who does not hold a valid license, or advertise such titles, or
 4 engage professionally for payment, barter, donation, or exchange, in the
 5 practice or instruction of massage therapy as defined in this chapter, who
 6 does not hold the applicable ~~certificate of registration~~ license issued by the
 7 board;

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

12 (3) To employ any person to practice or instruct under this
 13 chapter who does not hold a ~~certificate of registration~~ valid license issued
 14 by the board; or

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

18 (5) *For the board, or other individual or entity, to incorporate*
 19 ~~privileges, requirements or examinations~~ privileges or certification
 20 requirements of any private organization, private professional association, or
 21 private accrediting agency within Arkansas massage laws or its rules and
 22 regulations; providing, however, that the board may adopt as its licensure
 23 exam an exam drafted and administered by a private organization, private
 24 professional association, or private accreditation agency.

25 (b) Exemptions:

26 (1) Persons authorized by the laws of this state to practice
 27 medicine, osteopathy, ~~chiroprody,~~ podiatry, or physical therapy, licensed
 28 physician's trained assistants, licensed nurses, licensed physical therapy
 29 assistants, licensed acupuncturists, licensed midwives, and chiropractors, are
 30 exempt from this chapter ~~except as provided in § 17-86-201(a)(4) for board~~
 31 ~~members~~ in so far as massage therapy practices are offered or instructed
 32 within the scope and under the provisions of such licensure;

33 (2) Persons authorized by the board to present and instruct
 34 board-approved school curriculum and/or continuing education programs, may
 35 present and instruct such board approved curriculum and programs for payment
 36 and, in such presentation and instruction utilize practices defined in, but

1 without being licensed or registered under, the provisions of this chapter;

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

5 ~~(4)(A) Massage schools who have classes in session on August 1,~~
6 ~~1997, will complete that session using the curriculum that was required by §~~
7 ~~17-86-306(e)(1) and (2) immediately prior to August 1, 1997, and will begin~~
8 ~~following the curriculum as required by the 1997 amendments with the first~~
9 ~~class after August 1, 1997;~~

10 ~~(B) Undergraduate students attending massage school classes~~
11 ~~on August 1, 1997, will be examined and licensed under the requirements that~~
12 ~~existed prior to August 1, 1997, and undergraduate students who attend massage~~
13 ~~school classes after August 1, 1997, will be examined and licensed by said~~
14 ~~1997 amendments;~~

15 ~~(5)(3) The practice of massage therapy that is incidental to a~~
16 ~~program of study by students, enrolled in a registered licensed massage~~
17 ~~therapy school approved by the board, and under *direct* supervision of a ~~staff~~~~
18 ~~instructor of licensee employed as an instructor at said school, is exempt~~
19 ~~from § 17-86-311(a)(10); and~~

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

23
24 SECTION 10. Arkansas Code 17-86-302 is amended to read as follows:

25 "17-86-302. Sanitary requirements.

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

29 (1) ~~Continuous~~ A sink for hand washing with hot and cold running
30 water and soap must be ~~provided~~ accessible;

31 (2) ~~Bathroom accommodations must be provided~~ A restroom must be
32 accessible;

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

35 (4) Anyone who has any infectious, contagious, or communicable
36 disease which may be spread by airborne, droplet, contact and/or indirect

1 methods and who is in contact with the public must not be employed practice
2 until all risk of disease transmission is cleared. Any employee with such a
3 disease must be immediately relieved from duty until all risk of disease
4 transmission is cleared;

5 (5) ~~An office,~~ A school, or clinic must be equipped with a
6 massage table or tables, and/or a massage chair or chairs, and/or equipped
7 with such standard equipment dictated by the practice engaged in as defined in
8 § 17-86-102; and

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

11 ~~(7)(6)~~ A clinic, or school must comply with all
12 requirements of the Department of Health, city ordinances, and state laws.

13 (b) Failure to comply with any of the requirements as set forth by this
14 section will be grounds for suspension or revocation of license.”

15
16 SECTION 11. Arkansas Code 17-86-303 is amended to read as follows:

17 “17-86-303. Massage therapist.

18 (a) In order to be ~~registered~~ licensed as a massage therapist, the
19 person seeking ~~registration~~ licensure shall:

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

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

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

31 ~~(4) Pass a demonstrative and written examination conducted by and~~
32 ~~under the supervision of the board in the art of massage therapy as defined in~~
33 ~~§ 17-86-102(1) or meet reciprocity requirements as provided in § 17-86-308~~
34 Furnish to the board satisfactory proof of passing an examination recognized
35 and approved by the board; and

36 ~~(5) Furnish a certificate of physical examination signed by a~~

1 ~~regularly practicing physician, declaring such person to be free from any~~
 2 ~~contagious, infectious, or communicable disease. Such examination must have~~
 3 ~~taken place, or a certificate must have been issued, within the preceding six~~
 4 ~~(6) months; Present a physician's statement declaring such person free from~~
 5 ~~infectious tuberculosis and any disease or condition which could pose a health~~
 6 ~~risk to the public in the practice of massage therapy. Such examination must~~
 7 ~~have taken place within the preceding twelve (12) months; and~~

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

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

11
 12 (A) Registration fee \$75.00

13
 14 (B) Annual renewal fee..... 30.00

15
 16 (C) Examination fee or reexamination fee..... 25.00

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

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

25
 26 SECTION 12. Subchapter 3 of Chapter 86 of Title 17 of the Arkansas Code
 27 is amended to read as follows:

28 "17-86-304. Master massage therapist.

29 (a) Any person who ~~who [sic]~~ holds a ~~certificate of registration,~~
 30 license as a massage therapist, issued by the board who submits satisfactory
 31 evidence to the board that he or she has completed and meets the requirements
 32 stated in § 17-86-102(4), shall be entitled to be upgraded to master massage
 33 therapist.

34 (b) Fees are as follows:

35
 36 (1) Registration fee..... \$75.00

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

SECTION 13. Arkansas Code 17-86-305 is amended to read as follows:

"17-86-305. Massage therapy instructor.

(a) Any person who holds a ~~certificate of registration~~ license as a master massage therapist issued by the board, who submits satisfactory evidence to the board that he or she has successfully completed and meets the requirements stated in § 17-86-102(5) shall be entitled to be upgraded to massage therapy instructor.

(b) Fees are as follows:

(1) Registration fee \$75.00

(2) Annual renewal fee 45.00"

SECTION 14. Arkansas Code 17-86-306 is amended to read as follows:

"17-86-306. Massage therapy school.

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

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

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

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

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

(e) The board may certify the school and provide for ~~registration~~ licensure thereof, provided the school follows a curriculum approved by the board consisting of not less than five hundred (500) hours of in-classroom

1 instruction over a term of not less than four (4) months consisting of the
2 following subjects:

3 (1) ~~One hundred twenty-five (125)~~ one hundred seventy-five (175)
4 hours of anatomy, and physiology, pathology, and contraindications to massage
5 therapy;

6 (2) ~~Two hundred seventy-five (275)~~ Two hundred twenty-five (225)
7 hours of technique;

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

10 (4) Twenty-five (25) hours of hygiene, ~~and practical~~
11 ~~demonstration~~ and infection control;

12 (5) Twenty-five (25) hours of ~~health service management~~ massage
13 therapy law, business management, and professional ethics; and

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

16 (f)(1) *The fee for establishing a school is eight hundred fifty dollars*
17 *(\$850). The fee for establishing a satellite school is four hundred twenty-*
18 *five dollars (\$425).*

19 (2) *The initial inspection fee is one hundred dollars (\$100). The*
20 *initial inspection fee per each satellite school is one hundred dollars*
21 *(\$100).*

22 (3) *The annual renewal and inspection fee is one hundred dollars*
23 *(\$100). The annual renewal and inspection fee per each satellite school is one*
24 *hundred dollars (\$100).*

25 (g) The curriculum established in § 17-86-306(e) shall be followed for
26 all massage therapy programs beginning on or after July 1, 1999."

27
28 SECTION 15. Arkansas Code 17-86-307 is amended to read:

29 "17-86-307. Massage therapy ~~office or clinic~~.

30 (a) No person may establish, maintain, or operate a massage therapy
31 ~~office or clinic~~ until the address and telephone number of such office or
32 clinic has been supplied in writing to the board.

33 (b) In the event a massage therapy clinic ~~or office~~ moves to a new
34 location or changes its phone number, the new address and/or phone number will
35 be immediately submitted to the board in writing prior to operating the clinic
36 at the new address."

1
2 SECTION 16. Arkansas Code 17-86-308 is amended to read as follows:

3 "17-86-308. Reciprocity.

4 ~~(a) Any person who has been licensed to practice anything required to~~
5 ~~be licensed under this chapter in any other state or territory which has or~~
6 ~~maintains a standard of practice which is substantially the same as that~~
7 ~~maintained in this state, and which administers both a written and practical~~
8 ~~licensing examination, may, within the discretion of the board, be granted a~~
9 ~~license to practice in this state without being required to take an~~
10 ~~examination, if such person:~~

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

14 ~~(2) Is a person of good moral character and of professional~~
15 ~~attainments; and~~

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

18 ~~(b) The board may shall have the power discretion to enter into~~
19 ~~reciprocal relations with other states and territories whose licensure~~
20 ~~requirements are substantially the same as those provided in this chapter."~~
21

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

23 "17-86-309. Renewals - Inactive list.

24 ~~(a)(1)(A) Each certificate, for massage therapists, master massage~~
25 ~~therapists, massage therapy instructors, license for licensees and massage~~
26 ~~schools, shall be valid for a period of one (1) year and shall expire on June~~
27 ~~30th of each year, whereupon a renewal certificate license may be issued upon~~
28 ~~submission of completed license renewal application with payment of the fee(s)~~
29 ~~prescribed for class of certification.~~

30 ~~(B)(2) Each Prior to July 1, 1999, each renewal for ~~massage~~~~
31 ~~therapists, master massage therapists and massage therapy instructors~~
32 ~~licensees, shall be accompanied by proof of no less than three (3) in-~~
33 ~~classroom hours of continuing education which has been approved by the board~~
34 ~~and a physician's statement, issued during the preceding six (6) months,~~
35 ~~declaring the applicant free from any contagious, infectious, or communicable~~
36 ~~disease.~~

1 ~~(C)(3) Each Beginning July 1, 1999, each renewal for a massage~~
2 ~~school must be accompanied by a copy of a satisfactory board inspection issued~~
3 ~~during the preceding six (6) months. licensees shall be accompanied by proof~~
4 ~~of no less than six (6) hours of continuing education which has been approved~~
5 ~~by the board. A licensee may carry over no more than six (6) additional hours~~
6 ~~of continuing education from the previous licensing period.~~

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

10 (b) The board shall have the authority to levy penalties for late
11 renewals by licensees, which begin July 1st in the amount of twenty-five
12 dollars (\$25.00) per month, or portion thereof, for a period not to exceed six
13 months.

14 (c) The board shall issue a license effective as of the date of
15 receipt of the late application and all renewal fees, penalties and required
16 documentation.

17 (d) Any individual licensee who is not currently in practice and who
18 wishes to place his or her license on the inactive list may remain on this
19 list for a period not to exceed three (3) years without reexamination. After
20 such time, all inactive licensees will be required to meet current
21 requirements for licensure and must successfully complete an examination
22 recognized by the board prior to resuming the active practice of massage
23 therapy.

24 (e) Any individual licensee who has been placed on the inactive list
25 for less than three (3) years and who wishes to reactivate his or her license
26 must follow the procedures for license renewal as provided for in this
27 section, present satisfactory evidence of completion of continuing education
28 hours as required by § 17-86-309(a)(1)(C) for the inactive period, and pay all
29 appropriate fees prior to resuming the active practice of massage therapy.

30 ~~(2)(A) Penalty for late renewal, which begins July 1, for massage~~
31 ~~therapists, master massage therapists, massage therapy instructors, and~~
32 ~~massage schools, is five dollars (\$5.00) per month, and is in addition to~~
33 ~~current renewal fee, total penalty not to exceed seventy-five dollars~~
34 ~~(\$75.00), with any increment of a month counting as a full month.~~

35 ~~(B) The secretary-treasurer of the board shall issue~~
36 ~~current license upon receipt of the delinquent application, all renewal fees,~~

1 ~~penalties and required documentation.~~

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

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

18 ~~(2)(f) The fee for placement on the inactive list is ten dollars~~
 19 ~~(\$10.00) each year. "~~

20
 21 SECTION 18. Arkansas Code 17-86-310 is amended to read as follows:

22 "17-86-310. Display of certificate.

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

29 ~~(b) Each license shall provide the correct address of the board."~~

30
 31 SECTION 19. Arkansas Code 17-86-311 is amended to read as follows:

32 "17-86-311. Revocation, suspension, or denial.

33 (a) The board may deny, suspend, or revoke a ~~certificate of~~
 34 ~~registration license~~ upon any one (1) of the following grounds:

35 (1) Conviction of, or finding of guilt, or entry of a plea of
 36 guilty or nolo contendere to, a felony or prostitution;

- 1 (2) Malpractice or gross incompetency;
- 2 (3) The use in advertisements of untruthful or improbable
- 3 statements or flamboyant, exaggerated, or extravagant claims concerning the
- 4 licensee's professional excellence or abilities;
- 5 (4) Habitual drunkenness or habitual use of any illegal drugs;
- 6 (5) Serving, or having a permit to serve, alcoholic beverages at
- 7 the ~~office, clinic, or school~~;
- 8 (6) Engaging in moral turpitude, or immoral or unprofessional
- 9 conduct;
- 10 (7) Failure to comply with any valid regulation or order of the
- 11 board;
- 12 (8) Invasion of the field of practice of any profession for which
- 13 a license is required, or the diagnosis of ailments, diseases, or injuries of
- 14 human beings or the performance of osseous adjustments, prescription of
- 15 medications, or other breaches of the scope of practice of massage therapy;
- 16 (9) Failure of any licensee to comply with the provisions of this
- 17 chapter; or
- 18 (10) Failure to have licensed personnel to perform massage
- 19 therapy techniques in his or her ~~office, clinic, or school; or,~~
- 20 ~~(11) Failure of any licensee to renew his or her license in~~
- 21 ~~accordance with § 17-86-309.~~

22 (b)(1) Charges may be brought by any person, or the board on its own

23 motion may direct the ~~secretary-treasurer~~ executive director of the board to

24 prefer charges.

25 (2) Any accusation of any of the offenses enumerated in this

26 section may be filed with the ~~secretary-treasurer~~ executive director of the

27 board. The accusations shall be in writing, signed by the accuser, and

28 verified under oath.

29 (c) In denying, suspending, or revoking any ~~certificate of registration~~

30 license, the board shall afford any party review as provided for in the

31 Arkansas Administrative Procedure Act, beginning at § 25-15-201 ~~et seq.~~, and

32 as otherwise provided by the rules and regulations of the board."

33

34 SECTION 20. All provisions of this act of a general and permanent

35 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

36 Code Revision Commission shall incorporate the same in the Code.

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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.

SECTION 23. EMERGENCY CLAUSE. It is hereby found and determined by the Eighty-second General Assembly that this act is necessary to improve the functioning of the Arkansas State Board of Massage Therapy for the better regulation of the massage therapy industry and for the better protection of the public. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/ Rackley, et al