

MESSAGE THERAPY PRACTICE ACT

Part 1 - General Provisions

58-47b-101. Title.

This chapter is known as the "Massage Therapy Practice Act."

58-47b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Board of Massage created in Section 58-47b-201.
- (2) "Breast" means the female mammary gland and does not include the muscles, connective tissue, or other soft tissue of the upper chest.
- (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular system.
- (4) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice to work under the direct supervision of a licensed massage therapist.
- (5) "Massage therapist" means an individual licensed under this chapter as a massage therapist.
- (6) "Practice of massage therapy" means:
 - (a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;
 - (b) the systematic manual or mechanical manipulation of the soft tissue of the body for the therapeutic purpose of:
 - (i) promoting the health and well-being of a client;
 - (ii) enhancing the circulation of the blood and lymph;
 - (iii) relaxing and lengthening muscles;
 - (iv) relieving pain;
 - (v) restoring metabolic balance; and
 - (vi) achieving homeostasis;
 - (c) the use of the hands or a mechanical or electrical apparatus in connection with this Subsection (6);
 - (d) the use of rehabilitative procedures involving the soft tissue of the body;
 - (e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;
 - (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;
 - (g) manual traction and stretching exercise;
 - (h) correction of muscular distortion by treatment of the soft tissues of the body;
 - (i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;
 - (j) similar or related activities and modality techniques; and
 - (k) the practice described in this Subsection (6) on an animal to the extent permitted by:
 - (i) Subsection 58-28-307(12);
 - (ii) the provisions of this chapter; and
 - (iii) division rule.
- (7) "Soft tissue" means the muscles and related connective tissue.
- (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.
- (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule.

Part 2 - Board

58-47b-201. Board.

- (1) There is created the Board of Massage Therapy consisting of:
 - (a) four massage therapists; and
 - (b) one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-47b-301. Licensure required.

- (1) An individual shall hold a license issued under this chapter in order to engage in the practice of massage therapy, except as specifically provided in Section 58-1-307 or 58-47b-304.
- (2) An individual shall have a license in order to:
 - (a) represent himself as a massage therapist or massage apprentice;
 - (b) represents himself as providing a service that is within the practice of massage therapy or uses the word massage or any other word to describe such services; or
 - (c) charges or receives a fee or any consideration for providing a service that is within the practice of massage therapy.

58-47b-302. License classifications - Qualifications for licensure.

- (1) The division shall issue licenses under this chapter in the classifications of:
 - (a) massage therapist; and
 - (b) massage apprentice.
- (2) Each applicant for licensure as a massage therapist shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character;
 - (d) be 18 years of age or older;
 - (e) have either:
 - (i) (A) graduated from a school of massage having a curriculum which meets standards established by division rule made in collaboration with the board; or
 - (B) completed equivalent education and training in compliance with division rule; or
 - (ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training over a minimum of 12 months and in accordance with standards established by the division by rule made in collaboration with the board; and
 - (f) pass examinations established by rule by the division in collaboration with the board.

- (3) Each applicant for licensure as a massage apprentice shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character;
 - (d) be 18 years of age or older;
 - (e) provide satisfactory evidence to the division that the individual will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing and who has engaged in the lawful practice of massage therapy as a licensed massage therapist for not less than 6,000 hours; and
 - (f) successfully complete an examination as required by division rule.
- (4) (a) Any new massage therapist or massage apprentice applicant shall submit fingerprint cards in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.
 - (b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each new massage therapist or apprentice applicant through the national criminal history system (NCIC) or any successor system.
 - (c) The cost of the background check and the fingerprinting shall be borne by the applicant.
- (5) (a) Any new massage therapist or massage apprentice license issued under this section shall be conditional, pending completion of the criminal background check. If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license shall be immediately and automatically revoked.
 - (b) Any person whose conditional license has been revoked under Subsection (5)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (6) An applicant who successfully completes a fingerprint background check under Subsection (4) may not be required by any other state or local government body to submit to a second fingerprint background check as a condition of lawfully practicing massage therapy in this state.

58-47b-303. Term of license - Expiration - Renewal.

- (1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.
 - (b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-47b-304. Exemptions from licensure.

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:
 - (a) physicians and surgeons licensed under Title 58, Chapter 67, Utah Medical Practice Act;
 - (b) nurses licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act;

- (c) physical therapists licensed under Title 58, Chapter 24a, Physical Therapist Practice Act;
 - (d) osteopathic physicians licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (e) chiropractic physicians licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;
 - (f) hospital staff members employed by a hospital who practice massage as part of their responsibilities;
 - (g) athletic trainers who practice massage as part of their responsibilities while employed by an educational institution or an athletic team that participates in organized sports competition;
 - (h) students in training enrolled in a massage therapy school approved by the division;
 - (i) naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act;
 - (j) occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act; and
 - (k) persons performing gratuitous massage.
- (2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.
- (3) This chapter may not be construed to:
- (a) create or require insurance coverage or reimbursement for massage therapy for third party payors if this type of coverage did not exist on or before February 15, 1990; or
 - (b) prevent any insurance carrier from offering coverage for massage therapy.

58-47b-305. State and local jurisdiction.

- (1) (a) The division is the only agency authorized to license individuals to practice massage therapy within the state or any of its political subdivisions.
- (b) This chapter does not prevent any political subdivision of the state from enacting:
 - (i) ordinances governing the operation of establishments offering massages; or
 - (ii) ordinances regulating the practice of massage therapy, if the ordinances are not less stringent than this chapter.
- (2) This chapter does not prohibit any political subdivision of the state from prosecuting unlicensed individuals engaged in the practice of massage therapy or from prosecuting licensed individuals who are engaged in unlawful conduct.

Part 4 - License Denial and Discipline

58-47b-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for the following actions regarding a license under this chapter are in accordance with Section 58-1-401:

- (1) refusal to issue a license to an applicant;
- (2) refusal to renew the license of a licensee;
- (3) revocation, suspension, restriction, or placement on probation of a license;
- (4) issuance of a public or private reprimand to a licensee; and
- (5) issuance of a cease and desist order.

Part 5 - Unlawful and Unprofessional Conduct - Penalties

58-47b-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) practicing, engaging in, or attempting to practice or engage in massage therapy without holding a current license as a massage therapist or a massage apprentice under this chapter;
- (2) advertising or representing himself as practicing massage therapy when not licensed to do so; and
- (3) massaging, touching, or applying any instrument or device by a licensee in the course of practicing or engaging in massage therapy to:
 - (a) genitals or anus; and
 - (b) breasts of a female patron, except when a female patron requests breast massage, as may be further defined by division rule, and signs a written consent form, which must also include the signature of a parent or legal guardian if the patron is a minor, authorizing the procedure and outlining the reason for it before the procedure is performed.

58-47b-502. Unprofessional conduct.

"Unprofessional conduct" includes the following and may be further defined by division rule:

- (1) maintaining, operating, or assisting in the establishment or operation of any place of business for the purpose of performing massage without first obtaining a business license, if a license is required;
- (2) failing to comply with any applicable ordinances relating to the regulation of massage establishment;
- (3) failing to comply with all applicable state and local health or sanitation codes;
- (4) failing to properly supervise an apprentice;
- (5) failing to maintain mechanical or electrical equipment in a safe operating condition;
- (6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or water baths;
- (7) prescribing or administering medicine or drugs;
- (8) engaging in any act or practice in a professional capacity that is outside of the practice of massage therapy; and
- (9) engaging in any act or practice in a professional capacity for which the licensee is not competent to perform through training or experience.

58-47b-503. Penalties.

- (1) Except as provided in Subsection (2), any individual who commits an act of unlawful conduct under Section 58-47b-501 is guilty of a class A misdemeanor.
- (2) Sexual conduct that violates Sections 58-47b-501 and Title 76, Criminal Code, shall be subject to the applicable penalties in Title 76.

MESSAGE THERAPY PRACTICE ACT

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