

HOUSE BILL NO. HB0068

Massage therapist licensing.

Sponsored by: Representative(s) Meyer

A BILL

for

1 AN ACT relating to professions and occupations; providing  
 2 for the licensure of massage therapists as specified;  
 3 creating a licensing board; requiring a license for massage  
 4 therapists as specified; providing exceptions; providing  
 5 licensure requirements as specified; providing definitions;  
 6 providing for revocation of the license as specified;  
 7 providing a penalty; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 33-44-101 through 33-44-120 are  
 12 created to read:

13

14

CHAPTER 44

15

MESSAGE THERAPISTS

16

17 **33-44-101. Short title.**

1

2 This act may be cited as the "Massage Therapy Practice  
3 Act."

4

5 **33-44-102. Definitions.**

6

7 (a) As used in this act:

8

9 (i) "Board" means the board of massage therapy;

10

11 (ii) "Department" means the department of  
12 administration and information;

13

14 (iii) "Jurisprudence" means the statutes and  
15 rules of the state pertaining to the practice of massage  
16 therapy;

17

18 (iv) "Massage therapist" means a person who uses  
19 the title of massage therapist, is licensed pursuant to  
20 this act and administers massage therapy for compensation;

21

22 (v) "Massage therapy" means the treatment of  
23 soft tissues for therapeutic purposes as defined in W.S.

24 33-44-103; and

1

2 (vi) "This act" means W.S. 33-44-101 through  
3 33-44-120.

4

5 **33-44-103. Massage therapy; therapy; defined.**

6

7 (a) Massage therapy is the treatment of soft tissues  
8 for therapeutic purposes, primarily comfort and relief of  
9 pain. Massage therapy is a health care service. Massage  
10 therapy includes but is not limited to effleurage,  
11 petrissage, tapotement, compression, vibration, friction,  
12 nerve strokes and Swedish gymnastics. Massage therapy may  
13 include the use of oils, salt glows, hot or cold packs or  
14 hydrotherapy. Synonymous terms for massage therapy include  
15 massage, therapeutic massage, body massage, myomassage,  
16 bodywork, body rub or any derivation of those terms.

17

18 (b) The terms "therapy" and "therapeutic massage" do  
19 not include the diagnosis or treatment of illness or  
20 disease or any service or procedure for which a license to  
21 practice medicine, nursing, chiropractic, physical therapy,  
22 occupational therapy, acupuncture or podiatry is required  
23 by law.

24

1           **33-44-104. License required.**

2

3 It is unlawful for any person to practice massage therapy  
4 for compensation, to offer services as a massage therapist  
5 for compensation or to purport to be a massage therapist  
6 unless that person possesses a license to practice massage  
7 therapy under the provisions of this act. No person shall  
8 use the title of or represent himself to be a massage  
9 therapist or use any other title, abbreviations, letters,  
10 figures, signs or devices that indicate that person is a  
11 massage therapist unless he is licensed to practice massage  
12 therapy pursuant to the provisions of this act.

13

14           **33-44-105. Exemptions.**

15

16           (a) Nothing in this act shall be construed to  
17 prevent:

18

19                   (i) Qualified members of other recognized  
20 professions that are licensed or regulated under the law of  
21 this state from rendering services within the scope of  
22 their license or regulation, provided they do not represent  
23 themselves as massage therapists;

24

1           (ii) Students from rendering massage therapy  
2 services within the course of study of an approved massage  
3 therapy school and under the supervision of a licensed  
4 massage therapy instructor;

5  
6           (iii) Visiting massage therapy instructors from  
7 another state or territory of the United States, the  
8 District of Columbia or any foreign nation from teaching  
9 massage therapy provided the instructor is duly licensed or  
10 registered, if required, and is qualified in his place of  
11 residence for the practice of massage therapy. The board  
12 shall establish by rule the duration of stay for a visiting  
13 massage therapy instructor; and

14  
15           (iv) Native American healers from using  
16 traditional or Native American healing practices. Healers  
17 who use these practices but apply for a license or  
18 registration pursuant to the Massage Therapy Practice Act  
19 shall comply with all licensure requirements.

20

21           **33-44-106. Board created; membership.**

22

23           (a) There is created the board of massage therapy  
24 within the department of administration and information.

1

2 (b) The board shall consist of five (5) members who  
3 are residents of this state. Members of the board shall be  
4 appointed by the governor. Three (3) members of the board  
5 shall be licensed massage therapists, each with at least  
6 five (5) years of massage therapy practice in this state.  
7 Two (2) members of the board shall be public members. The  
8 initial three (3) professional members appointed shall not  
9 be required to meet the requirements for licensure. The  
10 public members shall not have been licensed or have any  
11 financial interest, direct or indirect, in the profession  
12 regulated.

13

14 (c) Each member of the board shall hold office until  
15 the expiration of the term for which appointed or until a  
16 successor has been appointed and qualified.

17

18 (d) No board member shall serve more than two (2)  
19 consecutive terms.

20

21 (e) The board shall elect annually a chairman and  
22 other officers as it deems necessary. The board shall meet  
23 as often as necessary for the conduct of business, but no  
24 less than twice a year. Meetings shall be called by the

1 chairman or upon the written request of three (3) or more  
2 members of the board. Three (3) members, at least one (1)  
3 of whom is a public member, shall constitute a quorum.

4

5 (f) The governor may remove any member of the board  
6 as provided by W.S. 9-1-202. Any board member may be  
7 recommended for removal as a member of the board for  
8 failing to attend, after proper notice, three (3)  
9 consecutive board meetings.

10

11 (g) Members of the board shall receive per diem in  
12 the same manner and amount as state employees under W.S.  
13 9-3-102 and shall receive no other compensation or  
14 allowance.

15

16 **33-44-107. Board duties.**

17

18 (a) The board shall have the power to:

19

20 (i) Adopt rules and regulations necessary to  
21 carry out the provisions of this act;

22

1           (ii) Provide for the evaluation of the  
2 qualifications of applicants for licensure or registration  
3 under this act;

4

5           (iii) Provide for the issuance of licenses or  
6 registrations to applicants who meet the requirements of  
7 this act;

8

9           (iv) Provide for the inspection, when required,  
10 of the business premises of any licensee during regular  
11 business hours;

12

13           (v) Establish minimum training and educational  
14 standards for licensure;

15

16           (vi) Establish a process for approval of  
17 training programs and massage therapy schools;

18

19           (vii) Provide for the investigation of persons  
20 engaging in practices that may violate the provisions of  
21 this act;

22

1           (viii) Revoke, suspend or deny a license or  
2 registration in accordance with the provisions of the  
3 Wyoming Administrative Procedure Act;

4  
5           (ix) Adopt a code of ethics; and

6  
7           (x) Provide for the investigation of complaints  
8 against licensees.

9  
10           **33-44-108. Requirements for licensure; registered**  
11 **instructors.**

12  
13           (a) The board shall issue a license to practice  
14 massage therapy to any person who files a completed  
15 application, accompanied by the required fees, and who  
16 submits satisfactory evidence that the applicant:

17  
18           (i) Has reached the age of majority;

19  
20           (ii) Has completed all educational requirements  
21 established by the board;

22  
23           (iii) Has completed a training program approved  
24 by the board, at a school approved by the board, that

1 program being at least six hundred fifty (650) hours in  
2 length and consisting of the following areas: anatomy,  
3 physiology, massage therapy, business, hydrotherapy, first  
4 aid, cardiopulmonary resuscitation and professional ethics.  
5 If the approved training program is less than six hundred  
6 fifty (650) hours, the applicant shall provide  
7 documentation of up to three hundred fifty (350) hours of  
8 alternative qualifying experience, including but not  
9 limited to professional massage therapy experience,  
10 apprenticeship training in massage therapy, clinical or  
11 internship training and prior experience in a health  
12 career, to be approved by the board; and

13

14 (iv) Demonstrates professional competence by  
15 passing a written examination as prescribed by the board.

16

17 (b) The board may also require a practical  
18 examination as a condition for licensure.

19

20 (c) The board shall register as a massage therapy  
21 instructor any applicant who:

22

1           (i) Is currently licensed as a massage therapist  
2 in another state or by a nationally recognized massage  
3 therapist association; and

4  
5           (ii) Proves to the board's satisfaction that he  
6 meets the minimum requirement of two (2) years of  
7 experience in his area of instruction.

8

9           **33-44-109. Display of license.**

10

11 A massage therapy license or registration issued by the  
12 board shall at all times be posted in a conspicuous place  
13 in the holder's principal place of business.

14

15           **33-44-110. Assignability of license.**

16

17 A license or registration issued pursuant to this act is  
18 not assignable or transferable.

19

20           **33-44-111. Examinations.**

21

22           (a) Examinations shall be held at least twice each  
23 year on a date and at a location established by the board.

24 Applicants who have been found to meet the education and

1 experience requirements for licensure shall be scheduled  
2 for the next examination following the filing of the  
3 application. The board shall establish by rule the  
4 examination application deadline and other rules relating  
5 to taking and retaking licensure examinations. The board  
6 shall determine the passing grade on examinations.

7

8 (b) The board shall specify by rule the general areas  
9 of competency to be covered by examinations for licensure  
10 and ensure that the examinations measure adequately both an  
11 applicant's competency and knowledge of related statutory  
12 requirements. Professional testing services may be utilized  
13 for the examinations.

14

15 (c) After taking the written examination, each  
16 applicant may be tested in the practical application of  
17 massage therapy techniques in such a manner and by such  
18 methods as shall reveal the applicant's skill and  
19 knowledge.

20

21 (d) All licensing examinations shall be conducted in  
22 such a manner that the applicants shall be known to the  
23 board by number until the examination is completed and the  
24 grade determined. A record of each examination shall be

1 filed in the board office and be available for inspection  
2 for a period of not less than two (2) years immediately  
3 following the examination.

4

5 **33-44-112. Temporary license.**

6

7 (a) Prior to examination, an applicant for licensure  
8 may obtain a temporary license to engage in the practice of  
9 massage therapy, provided that the applicant meets all the  
10 requirements for licensure except completion of the  
11 examination.

12

13 (b) The temporary license is valid until the results  
14 of the next scheduled examination are available and a  
15 license is issued or denied. If approved, the applicant  
16 shall be issued the initial license for the remainder of  
17 the year.

18

19 (c) No more than one (1) temporary license may be  
20 issued to an individual, and no temporary license shall be  
21 issued to an applicant who has previously failed the  
22 examinations.

23

24 **33-44-113. Licensure by credentials.**

1

2 After successful completion of a jurisprudence examination,  
3 the board may license an applicant, provided that he  
4 possesses a valid license or registration to practice  
5 massage therapy issued by the appropriate examining board  
6 under the laws of any other state or territory of the  
7 United States, the District of Columbia or any foreign  
8 nation and has met educational requirements substantially  
9 equivalent to or exceeding those established pursuant to  
10 this act.

11

12 **33-44-114. License or registration renewal;**  
13 **continuing education.**

14

15 (a) Massage therapy licenses shall expire annually on  
16 a date established by rule. Each licensee shall renew his  
17 license by submitting a renewal application on a form  
18 provided by the board. The board may establish continuing  
19 educational requirements as a condition of the renewal of  
20 licenses.

21

22 (b) A sixty (60) day grace period shall be allowed  
23 each license or registration holder after the end of the  
24 renewal period, during which time a license or registration

1 may be renewed upon payment of the renewal fee and a late  
2 fee as prescribed by the board.

3

4 **33-44-115. Inactive status.**

5

6 (a) Any license not renewed at the end of the sixty  
7 (60) day grace period shall be placed on inactive status  
8 for a period not to exceed two (2) years. At the end of two  
9 (2) years, if the license has not been reactivated, it  
10 shall automatically expire.

11

12 (b) If, within a period of two (2) years from the  
13 date the license was placed on inactive status, the massage  
14 therapist wishes to resume practice, the board shall be  
15 notified in writing, and, upon proof of completion of any  
16 continuing education or refresher courses prescribed by  
17 regulation of the board and payment of an amount set by the  
18 board in lieu of all lapsed renewal fees, the license shall  
19 be restored in full.

20

21 **33-44-116. License fees.**

22

23 (a) The board shall establish a schedule of  
24 reasonable fees for applications, licenses, registrations,

1 renewals, placement on inactive status and necessary  
2 administrative fees in accordance with W.S. 33-1-201 for  
3 the following:

4

5 (i) Initial licensure application;

6

7 (ii) Initial license fee;

8

9 (iii) Examination fee;

10

11 (iv) Annual renewal fee;

12

13 (v) Fee for reactivation of an inactive license;

14 and

15

16 (vi) Late renewal fee.

17

18 **33-44-117. Advertising.**

19

20 Each massage therapist licensed under the provisions of  
21 this act shall include the number of his license, in any  
22 advertisement of massage therapy services appearing in any  
23 newspaper, airwave transmission, telephone directory or  
24 other advertising medium.

1

2           **33-44-118. Power of county or municipality to**  
3 **regulate massage.**

4

5 A county or municipality, within its jurisdiction, may  
6 regulate persons licensed pursuant to this act. Regulation  
7 shall not be inconsistent with the provisions of this act.  
8 This section shall not be construed to prohibit a county or  
9 municipality from enacting any regulation of persons not  
10 licensed pursuant to this act.

11

12           **33-44-119. Denial, suspension, revocation and**  
13 **reinstatement of licenses.**

14

15           (a) The board may place on probation as specified by  
16 the board or refuse to issue or renew or may deny, suspend  
17 or revoke any license or temporary license held or applied  
18 for under this act in accordance with the Wyoming  
19 Administrative Procedure Act upon a finding by the board  
20 that the licensee, registrant or applicant:

21

22           (i) Is guilty of fraud, deceit or  
23 misrepresentation in procuring or attempting to procure a  
24 license or registration provided for in this act;

1

2 (ii) Attempted to use as his own the license of  
3 another;

4

5 (iii) Allowed the use of his license by another;

6

7 (iv) Has been adjudicated as mentally  
8 incompetent by regularly constituted authorities;

9

10 (v) Has been convicted or found guilty,  
11 regardless of adjudication, of a crime, in any  
12 jurisdiction, that directly relates to the practice of  
13 massage therapy or to the ability to practice massage  
14 therapy. Any plea of nolo contendere shall be considered a  
15 conviction for the purposes of this section;

16

17 (vi) Is guilty of unprofessional or unethical  
18 conduct or a violation of the code of ethics;

19

20 (vii) Is habitually or excessively using  
21 controlled substances or alcohol;

22

23 (viii) Is guilty of false, deceptive or  
24 misleading advertising;

1

2 (ix) Is guilty of aiding, assisting or  
3 advertising any unlicensed or unregistered person in the  
4 practice of massage therapy;

5

6 (x) Is grossly negligent or incompetent in the  
7 practice of massage therapy; or

8

9 (xi) Has had a license or registration to  
10 practice massage therapy revoked, suspended or denied in  
11 any jurisdiction, territory or possession of the United  
12 States or another country for acts of the licensee or  
13 registrant similar to acts described in this section. A  
14 certified copy of the record of conviction shall be  
15 conclusive evidence of such conviction.

16

17 (b) Disciplinary proceedings may be instituted by  
18 sworn complaint of any person, including members of the  
19 board, and shall conform with the provisions of the Wyoming  
20 Administrative Procedure Act.

21

22 (c) The board may establish the guidelines for the  
23 disposition of the disciplinary cases. Such guidelines may

1 include periods of probation, conditions of probation or  
2 reissuance of a license or registration.

3

4 (d) License and registration holders who have been  
5 found culpable and sanctioned by the board shall be  
6 responsible for the payments of all costs of the  
7 disciplinary proceedings.

8

9 **33-44-120. Penalties.**

10

11 Any person who violates any provision of this act is guilty  
12 of a misdemeanor, and upon conviction shall be punished by  
13 a fine not to exceed seven hundred fifty dollars (\$750.00),  
14 imprisonment for a period not to exceed six (6) months, or  
15 both.

16

17 **Section 2.** The legislature recognizes that the  
18 practice of massage therapy is potentially dangerous to the  
19 public. Therefore, it is necessary and in the interest of  
20 public health, safety and welfare, to regulate the practice  
21 of massage therapy.

22

1       **Section 3.** This act is effective July 1, 2004.

2

3

(END)