

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 451
Committee Substitute Favorable 6/21/17

Short Title: Regulate Massage & Bodywork Therapy Estmts.

(Public)

Sponsors:

Referred to:

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF MASSAGE AND
3 BODYWORK THERAPY TO REGULATE MASSAGE AND BODYWORK THERAPY
4 ESTABLISHMENTS AND REQUIRING MASSAGE AND BODYWORK THERAPISTS
5 TO OBTAIN A STATEWIDE PRIVILEGE LICENSE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 90-621 reads as rewritten:

8 "§ 90-621. Declaration of purpose.

9 The purpose of this Article is to ensure the protection of the health, safety, and welfare of
10 the citizens of this State receiving massage and bodywork therapy services. This purpose is
11 achieved ~~by establishing~~by:

12 (1) Establishing education and testing standards that ensure competency in the
13 practice of massage and bodywork therapy. Mandatory licensure of those
14 engaged in the practice of massage and bodywork therapy assures the public
15 that each individual has satisfactorily met the standards of the profession and
16 continues to meet both the ethical and competency goals of the profession.

17 (2) Establishing standards for establishments that provide massage and
18 bodywork therapy services. Mandatory licensure of those who own or
19 operate massage and bodywork therapy establishments assures the public
20 that these establishments provide legal, professional services and employ
21 licensed massage and bodywork therapists who have satisfactorily met the
22 standards of the profession and continue to meet both the ethical and
23 competency goals of the profession."

24 SECTION 2. G.S. 90-622 reads as rewritten:

25 "§ 90-622. Definitions.

26 The following definitions apply in this Article:

27 (1) Accreditation. – Status granted to a postsecondary institution of higher
28 learning that has met standards set by an accrediting agency recognized by
29 the Secretary of the United States Department of Education. The
30 accreditation for massage and bodywork schools may be institutional or
31 programmatic in nature.

32 (1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.

33 (2) Board-approved school. – Any massage and bodywork therapy school or
34 training program in this State or another state that is not otherwise exempt
35 from Board approval, that has met the standards set forth in this Article, and
36 been granted approval by the Board.



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- 1 (2a) Business name. – The name under which the owner applies for the
2 establishment license to provide massage therapy, if different from the name
3 of the owner.
- 4 ~~(2a)~~(2b) Criminal history record check. – A report resulting from a request made
5 by the Board to the North Carolina Department of Public Safety for a history
6 of conviction of a crime, whether a misdemeanor or felony, that bears on an
7 applicant's fitness for licensure to practice massage and bodywork therapy.
- 8 (3) Massage and bodywork therapy. – Systems of activity applied to the soft
9 tissues of the human body for therapeutic, educational, or relaxation
10 purposes. The application may include:
11 a. Pressure, friction, stroking, rocking, kneading, percussion, or passive
12 or active stretching within the normal anatomical range of
13 movement.
14 b. Complementary methods, including the external application of water,
15 heat, cold, lubricants, and other topical preparations.
16 c. The use of mechanical devices that mimic or enhance actions that
17 may possibly be done by the hands.
- 18 (3a) Massage and bodywork therapy establishment. – Any duly licensed site or
19 premises in which massage and bodywork therapy is practiced. This term
20 does not include any of the following:
21 a. On-site massage performed at the location of the customer.
22 b. Stand-alone devices, such as chairs, that are operated by the
23 customer.
24 c. Establishments located within the confines of a hospital, nursing
25 home, or other similar establishment or facility licensed or otherwise
26 regulated by the Department of Health and Human Services.
27 d. Massage and bodywork therapy provided by a sole practitioner.
28 e. A student clinic operated by a Board-approved school or a massage
29 and bodywork therapy program offered by community colleges in
30 North Carolina that are accredited by the Southern Association of
31 Colleges and Schools, or massage and bodywork therapy programs
32 offered by a degree or diploma granting college or university
33 accredited by any accrediting agency that is recognized by the United
34 States Department of Education and licensed by the North Carolina
35 Community College System or The University of North Carolina
36 Board of Governors or exempt from such licensure pursuant to
37 G.S. 116-15(c).
- 38 ~~(3a)~~(3b) Massage and bodywork therapy school. – Any educational institution
39 that conducts a training program or curriculum for a tuition charge, which is
40 intended to teach adults the knowledge, skills, and abilities necessary for the
41 safe, effective, and ethical practice of massage and bodywork therapy.
- 42 (4) Massage and bodywork therapist. – A person licensed under this Article.
- 43 (4a) Owner. – The person, sole proprietor, partnership, limited partnership, or
44 corporation that operates the massage and bodywork therapy establishment.
- 45 (5) Practice of massage and bodywork therapy. – The application of massage
46 and bodywork therapy to any person for a fee or other consideration.
- 47 (6) Sole practitioner. – A single licensed massage and bodywork therapist
48 offering massage or bodywork therapy services from a space the licensed
49 massage and bodywork therapist controls and from which only the licensed
50 massage and bodywork therapist offers and provides the services."

51 **SECTION 3.** The catch line of G.S. 90-623 reads as rewritten:

1 "§ 90-623. License to practice required."

2 SECTION 4. The catch line of G.S. 90-624 reads as rewritten:

3 "§ 90-624. Exemptions. Activities not requiring a license to practice."

4 SECTION 5. Subdivision (9) of G.S. 90-626 reads as rewritten:

5 "(9) Adopt, amend, or repeal any ~~rules of the following~~ rules:

6 a. Rules necessary to carry out the purposes of this Article and Article.

7 b. Rules necessary to carry out the duties and responsibilities of the
8 Board, including ~~rules the following~~:

9 1. Rules related to the approval of massage and bodywork
10 therapy schools, continuing education providers,
11 examinations for licensure, and the practice of advanced
12 techniques or specialties, and ~~massage and bodywork therapy~~
13 establishments. specialties. Any rules adopted or amended
14 shall take into account the educational standards of national
15 bodywork and massage therapy associations and professional
16 organizations.

17 2. Rules related to massage and bodywork therapy
18 establishments."

19 SECTION 6. G.S. 90-628(b) reads as rewritten:

20 "(b) The Board may impose the following fees up to the amounts listed ~~below~~:
21 a license to practice massage and bodywork therapy:

22 (1) Application for license	\$20.00
23 (2) Initial license fee	150.00
24 (3) License renewal	100.00
25 (4) Late renewal penalty	75.00
26 (5) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008.	
27 (6) Duplicate license	25.00
28 (7) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008."	

29 SECTION 7. G.S. 90-629 reads as rewritten:

30 "§ 90-629. Requirements for ~~licensure~~. licensure to practice.

31 Upon application to the Board and the payment of the required fees, an applicant may be
32 licensed as a massage and bodywork therapist if the applicant meets all of the following
33 qualifications:

- 34 (1) Has obtained a high school diploma or equivalent.
- 35 (2) Is 18 years of age or older.
- 36 (3) Is of good moral character as determined by the Board.
- 37 (4) Has successfully completed a training program consisting of a minimum of
38 500 in-class hours of supervised instruction at a Board-approved school.
- 39 (5) Has passed a competency assessment examination that meets generally
40 accepted psychometric principles and standards and is approved by the
41 Board.
- 42 (6) Has submitted fingerprint cards in a form acceptable to the Board at the time
43 the license application is filed and consented to a criminal history record
44 check by the North Carolina Department of Public Safety.
- 45 (7) Demonstrates satisfactory proof of proficiency in the English language."

46 SECTION 8. G.S. 90-629.1 reads as rewritten:

47 "§ 90-629.1. Criminal history record checks of applicants for ~~licensure~~. licensure to
48 practice and for ownership or operation of an establishment.

49 (a) All applicants for licensure to practice massage and bodywork therapy or to operate
50 a massage and bodywork therapy establishment shall consent to a criminal history record
51 check. Refusal to consent to a criminal history record check may constitute grounds for the

1 Board to deny licensure to an applicant. The Board shall ensure that the State and national
2 criminal history of an applicant is checked. The Board shall be responsible for providing to the
3 North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a
4 form signed by the applicant consenting to the criminal record check and the use of fingerprints
5 and other identifying information required by the State or National Repositories, and any
6 additional information required by the Department of Public Safety. The Board shall keep all
7 information obtained pursuant to this section confidential.

8"

9 **SECTION 9.** The catch line of G.S. 90-630.1 reads as rewritten:

10 "**§ 90-630.1. Licensure to practice by endorsement.**"

11 **SECTION 10.** G.S. 90-632 is recodified as G.S. 90-630.5 and reads as rewritten:

12 "**§ 90-630.5. ~~License renewal and~~Renewal of license to practice and license to operate**
13 **massage and bodywork therapy establishment; continuing education.**

14 (a) The license to practice and the license to operate a massage and bodywork therapy
15 establishment under this Article shall be renewed every two years.

16 (b) The continuing education requirement for the renewal of an initial license renewal
17 to practice is as follows:

18 (1) If the licensure period is two years or more, each licensee shall submit to the
19 Board evidence of the successful completion of at least 24 hours of study, as
20 approved by the Board, since the initial licensure application date in the
21 practice of massage and bodywork therapy.

22 (2) If the licensure period is less than two years, but more than one year, each
23 licensee shall submit to the Board evidence of the successful completion of
24 at least 12 hours of study, as approved by the Board, since the initial
25 licensure application date in the practice of massage and bodywork therapy.

26 (c) For subsequent renewals of a license renewals to practice, each licensee shall submit
27 to the Board evidence of the successful completion of at least 24 hours of study, as approved by
28 the Board, since the previous licensure renewal submission date in the practice of massage and
29 bodywork therapy."

30 **SECTION 11.** Article 36 of Chapter 90 of the General Statutes is amended by
31 adding new sections to read:

32 "**§ 90-632.10. Massage and bodywork therapy establishment license required.**

33 The Board shall license massage and bodywork therapy establishments in this State for the
34 purpose of protecting the health, safety, and welfare of the public. Unless otherwise exempt
35 from the Board licensure process, no individual, association, partnership, corporation, or other
36 entity shall open, operate, or advertise a massage and bodywork therapy establishment in this
37 State unless it has first been licensed by the Board. The Board shall maintain a list of licensed
38 massage and bodywork therapy establishments operating pursuant to this Article.

39 "**§ 90-632.11. Requirements for massage and bodywork therapy establishment licensure.**

40 (a) Any person who wishes to operate a massage and bodywork therapy establishment
41 shall obtain a license from the Board by submitting a massage and bodywork therapy
42 establishment licensure application accompanied by all of the following:

43 (1) The applicable fee set forth in G.S. 90-632.14.

44 (2) Proof of property damage and bodily injury liability insurance coverage in
45 the name of the owner or, if the establishment is operated under a business
46 name, in the name of both the owner and the business.

47 (3) Prior licensure and disciplinary history, including verifications from all
48 North Carolina licensing boards from which the owner holds or has held any
49 health related professional license.

- 1 (4) Fingerprint cards submitted in accordance with G.S. 90-629.1 at the time the
- 2 license application is filed and consented to a criminal history record check
- 3 by the Department of Public Safety.
- 4 (5) Ownership information, including at least all of the following:
- 5 a. Type of ownership.
- 6 b. Name of owner.
- 7 c. Name of authorized representative.
- 8 d. Address of establishment.
- 9 e. Social Security number or federal tax identification number.
- 10 f. E-mail address.
- 11 g. Current phone number.
- 12 h. Hours of operation.
- 13 (6) Proof of good moral character as determined by the Board.
- 14 (7) Signature of all owners or authorized corporate representatives or both.
- 15 (8) A successfully completed self-evaluation inspection report demonstrating
- 16 compliance with this section and any rules adopted pursuant to
- 17 G.S. 90-632.13.
- 18 (9) Proof that the establishment employs, hires, or plans to employ or hire one
- 19 or more massage and bodywork therapists who hold a current license from
- 20 the Board.

21 (b) The application for licensure shall be submitted in the name of the owner or owners
 22 of the establishment. If the owner is a corporation, the application shall be submitted in the
 23 name of the corporation and shall be signed by a corporate representative.

24 **"§ 90-632.12. Operation of a massage and bodywork therapy establishment under a name**
 25 **different than the owner; advertisement.**

26 (a) An owner may operate a licensed massage and bodywork therapy establishment
 27 under a name other than the name of the owner, provided such name is submitted to the Board
 28 on the application for licensure.

29 (b) Any advertisement by the massage and bodywork therapy establishment shall
 30 include the establishment's business name and shall comply with 21 NCAC 30 .0404.

31 **"§ 90-632.13. Rules for massage and bodywork therapy establishment license.**

32 The Board shall establish rules for the licensure of massage and bodywork therapy
 33 establishments. These rules shall include at least all of the following:

- 34 (1) Requirements for adequate, safe, and sanitary facilities.
- 35 (2) Requirements for compliance with local building code requirements, State
- 36 fire safety codes, and State health inspection codes necessary to ensure the
- 37 safe and effective practice of massage and bodywork therapy.
- 38 (3) Requirements for retention of client and ownership records.
- 39 (4) A description of the process used by the Board to approve massage and
- 40 bodywork therapy establishment licenses.
- 41 (5) Requirements for initial and periodic inspections of massage and bodywork
- 42 therapy establishments.
- 43 (6) Requirements for transfer of a massage and bodywork therapy establishment
- 44 license.

45 **"§ 90-632.14. Fees for massage and bodywork therapy establishment license.**

46 (a) The Board may impose the following fees up to the amounts listed below for
 47 massage and bodywork therapy establishment licensure:

48 (1) <u>Application for license</u>	<u>\$20.00</u>
49 (2) <u>Initial license fee</u>	<u>150.00</u>
50 (3) <u>License renewal</u>	<u>100.00</u>
51 (4) <u>Late renewal penalty</u>	<u>75.00</u>

- 1 (5) Duplicate license25.00
- 2 (6) Inspection of establishment150.00
- 3 (b) All fees listed in subsection (a) of this section shall be paid in the form of a cashier's
- 4 check, certified check, or money order made payable to the North Carolina Board of Massage
- 5 and Bodywork Therapy and shall be nonrefundable.

6 **"§ 90-632.15. Grounds for suspension, revocation, or refusal of massage and bodywork**
7 **therapy establishment license; notice and hearing; judicial review.**

8 (a) The Board may deny, suspend, revoke, discipline, or refuse to approve a massage
9 and bodywork therapy establishment for any of the following reasons:

- 10 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
- 11 attempting to obtain a massage and bodywork therapy establishment license.
- 12 (2) Engaging in any act or practice in violation of any of the provisions of this
- 13 Article or of any of the rules adopted by the Board, or aiding, abetting, or
- 14 assisting any other person in the violation of the provisions of this Article or
- 15 rules adopted by the Board.
- 16 (3) Failure to require that its employees or independent contractors be currently
- 17 licensed by the Board.
- 18 (4) Operating a massage and bodywork therapy establishment without a license
- 19 from this Board.
- 20 (5) Engaging in conduct that could result in harm or injury to the public.
- 21 (6) The employment of fraud, deceit, or misrepresentation when communicating
- 22 with the general public, health care professionals, or other business
- 23 professionals.
- 24 (7) Falsely holding out a massage and bodywork therapy establishment as
- 25 licensed by this Board.
- 26 (8) Failure to allow authorized representatives of the Board to conduct
- 27 inspections of the massage and bodywork therapy establishment or refusing
- 28 to make available to the Board, following written notice to the massage and
- 29 bodywork therapy establishment, the requested information pertaining to the
- 30 requirements for approval set forth in this Article.
- 31 (9) Failure to notify the Board in writing within 30 days of any notification it
- 32 receives from any state, local, or federal court or agency of a show cause
- 33 action, probation action, or denial of licensure or approval.
- 34 (10) The applicant for or holder of a massage and bodywork therapy
- 35 establishment license has pleaded guilty, entered a plea of nolo contendere,
- 36 or has been found guilty of a crime involving moral turpitude by a judge or
- 37 jury in any state or federal court.

38 (b) A refusal to issue, refusal to renew, or suspension or revocation of a massage and
39 bodywork therapy establishment license under this section shall be made in accordance with
40 Chapter 150B of the General Statutes.

41 **"§ 90-632.16. Unlicensed massage and bodywork therapy prohibited at massage and**
42 **bodywork therapy establishments.**

43 A massage and bodywork therapy establishment shall not employ or contract with any
44 person in this State to provide massage and bodywork therapy unless that person holds a
45 current license to practice massage and bodywork therapy issued pursuant to this Article.

46 **"§ 90-632.17. Sexual activity prohibited.**

47 (a) Sexual activity or solicitation of sexual activity by any person or persons in any
48 massage and bodywork therapy establishment is unlawful and prohibited.

49 (b) No owner shall engage in or permit any person or persons to engage in sexual
50 activity in the owner's massage and bodywork therapy establishment. No owner shall engage in

1 or permit any person or persons to use the owner's massage and bodywork therapy
2 establishment to make arrangements to engage in sexual activity in any other place.

3 **"§ 90-632.18. Enforcement; injunctive relief against massage and bodywork therapy**
4 **establishments.**

5 The Board may utilize the enforcement and injunctive relief set forth in G.S.90-634 and
6 assess civil penalties and disciplinary costs as provided in G.S. 90-634.1 to address violations
7 of G.S. 90-632.10 through G.S. 90-632.17, any rules adopted pursuant to G.S. 90-632.13, or
8 any other laws or rules applicable to the operation of a a massage and bodywork therapy
9 establishment."

10 **SECTION 12.** G.S. 90-634 reads as rewritten:

11 **"§ 90-634. Enforcement; injunctive relief.**

12 (a) It is unlawful for a person not licensed or exempted under this Article to engage in
13 any of the following:

14 (1) Practice of massage and bodywork therapy.

15 (2) Advertise, represent, or hold out himself or herself to others to be a massage
16 and bodywork therapist.

17 (3) Use any title descriptive of any branch of massage and bodywork therapy, as
18 provided in G.S. 90-623, to describe his or her practice.

19 (b) A person who violates subsection (a) of this section shall be guilty of a Class 1
20 misdemeanor.

21 (b1) Unless exempt from the approval process, it is unlawful for an individual,
22 association, partnership, corporation, or other entity to open, operate, or advertise a massage
23 and bodywork therapy school without first having obtained the approval required by
24 G.S. 90-631.1.

25 (b2) An individual, association, partnership, corporation, or other entity that violates
26 subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

27 (b3) It is unlawful for a person, individual, association, partnership, corporation, or other
28 entity to do any of the following:

29 (1) Employ, hire, engage, or otherwise contract with a person who is not
30 licensed or exempted under this Article to provide massage and bodywork
31 therapy services to the public.

32 (2) Aid and abet any person not licensed or exempted under this Article in the
33 practice of massage and bodywork therapy.

34 (3) Advertise, represent, or hold out any person not licensed or exempted under
35 this Article to others as a massage and bodywork therapist.

36 (4) Describe the practice of any person not licensed or exempted under this
37 Article or use any title descriptive of any branch of massage and bodywork
38 therapy to reference any such person in violation of G.S. 90-623.

39 (b4) A person who violates subsection (b3) of this section shall be guilty of a Class 1
40 misdemeanor.

41 (c) The Board may make application to superior court for an order enjoining a violation
42 of this Article. Upon a showing by the Board that a person, association, partnership,
43 corporation, or other entity has violated or is about to violate this Article, the court may grant
44 an injunction, restraining order, or take other appropriate action."

45 **SECTION 13.(a)** G.S. 14-202.10(2) reads as rewritten:

46 "(2) "Adult establishment" means an adult bookstore, adult motion picture
47 theatre, adult mini motion picture theatre, or adult live entertainment
48 ~~business, or massage-business~~ as defined in this section."

49 **SECTION 13.(b)** G.S. 14-202.10(7) and G.S. 14-202.10(8) are repealed.

50 **SECTION 13.(c)** G.S. 14-202.11 is amended by adding a new subsection to read as
51 follows:

1 "(a1) No person shall permit the practice of massage and bodywork therapy, as defined in
2 Article 36 of Chapter 90 of the General Statutes, in an adult establishment."

3 **SECTION 14.** G.S. 105-41(a) reads as rewritten:

4 "**§ 105-41. Attorneys-at-law and other professionals.**

5 (a) Every individual in this State who practices a profession or engages in a business
6 and is included in the list below must obtain from the Secretary a statewide license for the
7 privilege of practicing the profession or engaging in the business. A license required by this
8 section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

9 ...

10 (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a
11 chiropractist, a dentist, an ophthalmologist, an optician, an optometrist, a
12 massage and bodywork therapist, or another person who practices a
13 professional art of healing.

14 "

15 **SECTION 15.** Sections 1 through 11 and Section 13 of this act become effective
16 October 1, 2017. Section 12 of this act becomes effective December 1, 2017, and applies to
17 offenses committed on or after that date. Section 14 of this act is effective when it becomes law
18 and applies to taxable years beginning on or after July 1, 2018. The remainder of this act is
19 effective when it becomes law.