

2013 -- S 0648 SUBSTITUTE A

LC01924/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF MASSAGE THERAPISTS

Introduced By: Senators Lynch, and Doyle

Date Introduced: March 06, 2013

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-20.8-1 of the General Laws in Chapter 23-20.8 entitled
2 "Licensing of Massage Therapy Establishments" is hereby amended to read as follows:

3 **23-20.8-1. Definitions.** -- As used in this chapter:

4 (1) "Massage therapist" means a person engaged in the practice of massage and is
5 licensed in accordance with this chapter of the general laws of the state of Rhode Island. ~~who has~~
6 ~~completed a program in or is certified by a school or institution of learning which is approved by~~
7 ~~the American massage and therapy association or equivalent academic and training program~~
8 ~~approved by the director of health, other than a correspondence course, which school or~~
9 ~~institution has for its purpose the teaching of the theory, practice, method, profession, or work of~~
10 ~~massage, including at least anatomy, physiology, hygiene, and professional ethics.~~

11 ~~(2) "Physical fitness facility" means any bona fide health club which offers or provides~~
12 ~~facilities for any instruction in controlled exercise, weight lifting, and calisthenics and its gross~~
13 ~~income from massages is less than ten percent (10%) of the total gross business income derived~~
14 ~~from all physical fitness sales contracts at any one location;~~

15 ~~(3)~~(2) "Practice of massage" means ~~engaging in applying a scientific system of activity to~~
16 ~~the muscular structure of the human body by means of stroking, kneading, tapping, and vibrating~~
17 ~~with the hands or vibrators for the purpose of improving muscle tone and circulation.~~ the manual
18 manipulation of the soft tissues of the human body through the systematic application of massage
19 techniques including: effleurage, petrissage, compression, friction, vibration, percussion,

1 pressure, positional holding, movement, range of motion for purposes of demonstrating muscle
2 excursion or muscle flexibility and nonspecific stretching. The term massage includes the
3 external application of lubricants or other topical preparations such as water, heat and cold via the
4 use of the hand, foot, arm or elbow with or without the aid of massage devices for the purpose of
5 aiding muscle relaxation, reducing stress, improving circulation increasing range of motion,
6 relieving muscular pain and the overall enhancement of health. Massage shall not include the
7 touch of genitalia, diagnosis of illness or disease, the prescribing of drugs, medicines or exercise,
8 high-velocity thrust applied to the joints or spine, electrical stimulation, application of ultrasound
9 or any services or procedures for which a license to practice medicine, chiropractic, occupational
10 therapy, physical therapy or podiatry as required by law.

11 (3) "Board" means the Rhode Island State Board of Licensed Massage Therapists as
12 established within this chapter.

13 SECTION 2. Chapter 23-20.8 of the General Laws entitled "Licensing of Massage
14 Therapy Establishments" is hereby amended by adding thereto the following section:

15 **23-20.8-2.1. Board of massage therapists.** – (a) Within the division of professional
16 regulation of the department of health, there shall be a state board of massage therapy examiners
17 to be appointed by the director of the department of health with the approval of the governor. The
18 board shall consist of seven (7) members who reside in the state of Rhode Island, four (4) of
19 whom shall be licensed pursuant to this chapter and one of whom shall be a member of the
20 general public, and who does not have financial interest in the profession, or is married to
21 someone in the profession. At no time shall more than one board member be an owner of, an
22 instructor of, or otherwise affiliated with a board-approved massage therapy school or course of
23 instruction. The four (4) members who are licensed pursuant to this chapter shall represent both
24 solo practitioners as well as members of a group practice.

25 (b) The initial board shall be appointed for staggered terms, the longest of which shall not
26 exceed three (3) years. After the initial appointments, all terms shall be for two (2) years and a
27 member may be reappointed for a second (2nd) term. No member shall serve more than three (3)
28 consecutive terms. Upon the death, resignation or removal of any member, the director of the
29 department of health, with the approval of the governor, shall appoint to fill vacancies, as they
30 occur, a qualified person to serve on the board for the remainder of his or her term or until his or
31 her successor is appointed and qualified.

32 (c) The board shall meet at least quarterly thereafter, shall hold a meeting and elect a
33 chairman. The board may hold additional meetings at the call of the chair or at the written request
34 of any three (3) of the board. The board may appoint such committees as it considers necessary to

1 carry out its duties. A majority of the sitting members of the board shall constitute a quorum.

2 (d) The director of the department of health may remove any member of the board for the
3 neglect of any duty required by law or for any incompetent, unprofessional, or dishonorable
4 conduct. Before beginning his or her term of office, each member shall take the oath prescribed
5 by law, a record of which shall be filed with the secretary of state.

6 SECTION 3. Sections 23-20.8-3, 23-20.8-4, 23-20.8-5, 23-20.8-6, 23-20.8-7, 23-20.8-9,
7 23-20.8-10 and 23-20.8-11 of the General Laws in Chapter 23-20.8 entitled "Licensing of
8 Massage Therapy Establishments" are hereby amended to read as follows:

9 ~~23-20.8-3. Practice of massage -- Use of titles limited -- Qualifications for licenses --~~
10 ~~Fees Practice of massage – Licensed required – Use of title limited -- Qualifications for~~
11 ~~licenses continuing education – Fees. --~~ (a) ~~Only a person licensed under this chapter shall~~
12 ~~practice massage.~~ A person shall not practice or hold himself or herself out to others as practicing
13 massage therapy, or as a massage therapist without first receiving from the board a license to
14 engage in that practice.

15 (b) ~~Only a person licensed under this chapter as a massage therapist may use the title~~
16 ~~"massage therapist." Only a person licensed under this chapter may use the title "masseur" or~~
17 ~~"masseuse."~~ A person shall hold himself or herself out to others as a massage therapist when the
18 person adopts or uses any title or description including "massage therapist," "masseur,"
19 "masseuse," "massagist," "massotherapist," "myotherapist," "body therapist," "massage
20 technician," "massage practitioner," or any derivation of those terms that implies this practice.

21 (c) ~~No person, firm, partnership, or corporation shall describe its services under the title~~
22 ~~"massage" or "massage therapy" unless these services, as defined in section 23-20.8-1, are~~
23 ~~performed by a person licensed to practice massage under this chapter, and, if described as~~
24 ~~"massage therapy," by a massage therapist.~~ It shall be unlawful to advertise the practice of
25 massage using the term massage or any other term that implies a massage technique or method in
26 any public or private publication or communication by a person not licensed by the state of Rhode
27 Island department of health as a massage therapist. Any person who holds a license to practice as
28 a massage therapist in this state may use the title "licensed massage therapist" and the
29 abbreviation "LMT." No other persons may assume such title or use such abbreviation or any
30 other word, letters, signs, or figures to indicate that the person using the title is a licensed massage
31 therapist. A massage therapist's name and license number must conspicuously appear on all of
32 the massage therapist's advertisements. A massage therapist licensed under this chapter must
33 conspicuously display his or her license in his or her principal place of business. If the massage
34 therapists does not have a principal place of business or conducts business in any other location,

1 he or she must have a copy of his or her license available for inspection while performing any
2 activities related to massage therapy.

3 ~~(d) Application for licenses as a masseur or masseuse, or as a massage therapist, shall be~~
4 ~~issued by the department of health. Except for persons licensed as massage therapists, the~~
5 ~~department shall establish minimum educational and training requirements for the persons to be~~
6 ~~licensed under this chapter and shall have the authority to take disciplinary action against a~~
7 ~~licensee for knowingly placing the health of a client at serious risk without maintaining the proper~~
8 ~~precautions.~~

9 (d)(1) The board shall, by rule, establish requirements for continued education. The board
10 may establish such requirements to be completed and verified biennially or annually. The board
11 shall require no more than twelve (12) hours biennially or six (6) hours annually.

12 (2) Applicants for biennial licensure renewal shall meet continuing education
13 requirements as prescribed by the board. On application for renewal of license, massage
14 therapists shall attest to completion of six (6) hours annually in scope of practice-specific
15 offerings that may include, but not be limited to:

16 (i) Formal presentations;

17 (ii) Conferences;

18 (iii) Coursework from a regionally accredited college/university; and/or

19 (iv) Self-study course, such as online courses awarding one education hour for each hour
20 completed.

21 Such programs or offerings shall be approved or sponsored by a board-approved
22 organization. The board shall require no more than two (2) hours of ethics or standards of practice
23 biennially.

24 (3) A licensee who fails to complete the continuing education requirements described
25 herein may be subject to disciplinary action pursuant to section 5-40-13 of this chapter.

26 (4) A license may be denied to any applicant who fails to provide satisfactory evidence of
27 completion of continuing education relevant to massage therapy as required herein.

28 (5) The board may waive the requirement for these educational requirements if the board
29 is satisfied that the applicant has suffered hardship, which may have prevented meeting the
30 educational requirements.

31 (e) The fee for original application for licensure as a massage therapist and for annual
32 license renewal shall be as set forth in section 23-1-54. Fees for all other licenses under this
33 chapter shall be fixed in an amount necessary to cover the cost of administering this chapter.

34 (f) Any person applying for a license under this chapter shall undergo a criminal

1 background check. Such persons shall apply to the bureau of criminal identification of the state
2 police or local police department for a nationwide criminal records check. Fingerprinting shall be
3 required. Upon the discovery of any disqualifying information as defined in ~~section 23-20.8-5~~
4 subsection (g), the bureau of criminal identification of the state police or the local police
5 department shall inform the applicant, in writing, of the nature of the disqualifying information
6 and, without disclosing the nature of the disqualifying information, shall notify the board, in
7 writing, that disqualifying information has been found. In those situations in which no
8 disqualifying information has been found, the bureau of criminal identification shall inform the
9 applicant and the board in writing of this fact. An applicant against whom disqualifying
10 information has been found may request that a copy of the criminal background report be sent to
11 the board, which shall make a judgment regarding the licensure of the applicant. The applicant
12 shall be responsible for payment of the costs of the criminal records check.

13 (g) "Disqualifying information" means those offenses, including, but not limited to, those
14 offenses defined in sections 11-37, 11-37-8.1, 11-37-8.3, 23-17-37, 11-34 and 11-34.1.

15 ~~**23-20.8-4. Establishment of rules and regulations—Hearings**~~ **Establishment – Board**
16 **of massage therapists—Powers and duties.** -- ~~(a) The authority to promulgate regulations for~~
17 ~~the efficient enforcement of this chapter is vested in the director of health.~~

18 ~~(b) Hearings authorized or required under this chapter shall be conducted by the director~~
19 ~~of health or any officer, agent, or employee as the director of health may designate for this~~
20 ~~purpose.~~

21 ~~(c) Before promulgating any regulation, the director of health shall give appropriate~~
22 ~~public notice of its proposal and the time and place for a public hearing on this regulation. The~~
23 ~~regulation promulgated shall be filed with the office of the secretary of state and shall become~~
24 ~~effective on a date fixed by the director of health (which date shall not be prior to thirty (30) days~~
25 ~~after its promulgation). The regulation may be amended or repealed in the same manner as is~~
26 ~~provided for in its adoption.~~

27 Subject to the provisions of this chapter, the board shall have the following powers and
28 duties:

29 (1) Adopt rules and regulations governing the licensure of massage therapists in a manner
30 consistent with the provisions of this chapter and in accordance with the procedures outlined in
31 the Administrative Procedures Act;

32 (2) Establish standards of professional and ethical conduct;

33 (3) Adopt rules that endorse equivalent licensure examinations of another state or
34 territory of the United States, the District of Columbia, or a foreign country and that may include

1 licensure by reciprocity; hold hearing, as necessary, in accordance with the Administrative
2 Procedures Act.

3 (4) Maintain a complete record of all licensed massage therapists, ensure licensee
4 compliance with all established requirements. The board will make an annual report to the
5 governor which shall contain duties performed, actions taken and appropriate recommendations.
6 Consult and advise other regulatory entities as necessary regarding issues pertaining to massage
7 therapy practice, education and/or issues related to the regulation of massage therapists.

8 ~~**23-20.8-5. Issuance or denial of license -- Minimum qualifications Application for**~~
9 ~~**license -- Issuance or denial of license -- Minimum qualifications. --**~~ ~~The director shall, within~~
10 ~~thirty (30) days from the time any application for a license is received, grant the application and~~
11 ~~issue a license to practice massage for a year from that date, if the director shall be satisfied that~~
12 ~~the applicant complies with the rules and regulations promulgated in accordance with sections 23-~~
13 ~~20.8-3 and 23-20.8-4, establishing standards for the qualifications of these personnel. The~~
14 ~~standards for qualification of persons practicing massage shall include provisions for minimum~~
15 ~~standards of professional education or experience, as determined by the director. The director~~
16 ~~may provide for the examination of these applicants to determine his or her qualifications. An~~
17 ~~applicant, whose criminal records check reveals a conviction for any sexual offense, including,~~
18 ~~but not limited to, those offenses defined in chapters 34 and 37 of title 11, shall be denied a~~
19 ~~license under this chapter.~~

20 (a) Every person desiring to begin the practice of massage therapy, except exempt
21 persons as provided in this chapter, shall present satisfactory evidence to the division of
22 professional regulation of the department of health, verified by oath, that he or she is:

23 (1) Over eighteen (18) years of age;

24 (2) Of good moral character (via background check in accordance with section 23-20.8-
25 3);

26 (3) Has successfully completed an educational program, meeting minimum requirements
27 established by the board, including at least five hundred (500) hours of in-class, hands-on and
28 supervised coursework and clinical work; and

29 (4) Has successfully completed an examination approved by the board. Any examination
30 approved by the board must meet generally recognized standards including development through
31 the use of a job-task analysis and must meet appropriate psychometric standards.

32 (b) The department may grant a license to any applicant satisfying the requirements of
33 subdivisions 23-20.8-5(a)(1) and (2), has completed all appropriate forms, paid all appropriate
34 fees and has met substantially equivalent standards in obtaining a valid license, permit, certificate

1 or registration issued by any other state or territory of the United States or by a foreign country.

2 (c) The department shall, within sixty (60) days from the time any application for a
3 license is received, grant the applications and issue a license to practice massage for a year from
4 that date if the department is satisfied that the applicant complies with the rules and regulations
5 promulgated in accordance with this chapter. An applicant, whose criminal records check reveals
6 a conviction for any sexual offense, including, but not limited to, those offenses defined in
7 chapters 34 and 37 of title 11, shall be denied a license under this chapter.

8 (d) The fee for original application for licensure as a massage therapist and the fee for
9 annual license renewal shall be determined by the board and shall not exceed one hundred dollars
10 (\$100).

11 **23-20.8-6. Suspension and revocation of licenses.** -- Whenever the ~~director~~ board, or
12 board designee, shall have reason to believe or that any person licensed under this chapter to
13 practice massage therapy has been convicted of any sexual offense, or that any person is
14 practicing massage in violation of this chapter or regulations promulgated under this chapter, the
15 ~~director~~ board, or board designee, may, pending an investigation and hearing, suspend for a
16 period not exceeding ~~thirty (30)~~ ninety (90) days any license issued under authority of this
17 chapter and may, after due notice and hearing, revoke the license if he or she finds that the person
18 practicing massage is in violation of those rules and regulations or any provision of this chapter.
19 The holder of a license shall upon its revocation promptly surrender it to the ~~director~~ board, or
20 board designee.

21 **23-20.8-7. Judicial review of license action.** -- Any person aggrieved by a decision of
22 the ~~director~~ board, or board designee refusing to grant an application for a license under this
23 chapter or suspending or revoking any license already issued may, within thirty (30) days,
24 exclusive of Sundays and holidays, after receiving notice of that decision, ~~appeal to the superior~~
25 ~~court for the counties of Providence and Bristol, by filing in the court his or her reasons of appeal,~~
26 ~~and the court shall, as soon as possible after any notice to the director as the court may prescribe,~~
27 ~~hear and determine the appeal, following the course of equity.~~ or order of the boards,
28 administrator of professional regulation or director department of health may be taken by an
29 aggrieved party to the superior court in the manner provided for in chapter 35 of title 42.

30 **23-20.8-9. Persons exempt.** -- Nothing contained in this chapter shall prohibit:

31 ~~(1) The practice of massage by any person who is authorized to practice medicine,~~
32 ~~nursing, osteopathy, physiotherapy, chiropractic, or podiatry in this state~~ A person who is
33 otherwise licensed certified or registered in accordance with the general laws of Rhode Island,
34 from performing service within his/her or authorized scope of practice and who does not hold

1 himself/herself out to be a massage therapist.

2 (2) ~~The practice of that massage which is customarily given in barber shops or beauty~~
3 ~~parlors for the purpose of beautification by any licensed barber, hairdresser, or cosmetician~~ A
4 person duly licensed, certified, or registered in another state or territory, the District of Columbia,
5 or a foreign country when incidentally in this state to provide service as part of an emergency
6 response team working in conjunction with disaster relief official or as part of a charity event.

7 (3) ~~The practice of massage by any person employed in a medical institution licensed or~~
8 ~~chartered by the state or enrolled in a program of a school or institute of massage approved by the~~
9 ~~board of regents~~ Nonresident practitioners holding a valid license, permit, certificate or
10 registration issued by any other state or territory of the United States or by a foreign country and
11 temporarily practicing massage in this state for a period not exceeding thirty (30) days for the
12 purpose of presenting educational or clinical programs, lectures, seminars or workshops to
13 massage therapists.

14 (4) ~~The practice of massage by any person duly employed as a trainer by a professional~~
15 ~~athletic association, club, or team, or as a member of the physical education department of an~~
16 ~~accredited university, college, or high school~~ Graduates from an approved educational program,
17 may practice massage therapy only under the supervision of one, assigned, onsite licensed
18 massage therapist. Graduates have ninety (90) days from the date on the application fee receipt, to
19 meet licensure requirements of this state in accordance with regulations prescribed by the board.

20 (5) ~~The practice of massage by any person in a physical fitness facility operated by a~~
21 ~~corporation or association organized exclusively for the moral or mental improvement of men,~~
22 ~~women, or children.~~ Persons who provide acceptable evidence of being currently licensed to
23 practice massage by examination or endorsement under the laws of other states of the United
24 States and the District of Columbia have a grace period of forty-five (45) days from the date on
25 the application fee receipt to meet licensure requirements of this state in accordance with
26 regulations prescribed by the board. The original privilege to work forty-five (45) days from the
27 date on the application fee receipt shall not be extended or renewed.

28 (6) Nothing in the article shall be construed to prevent or restrict the practice of any
29 person in this state who uses touch, words and directed movement to deepen awareness of
30 existing patterns of movement in the body as well as to suggest new possibilities of movement
31 while engaged within the scope of practice of a profession with established standards and ethics,
32 provided that his or her services are not designated or implied to be massage or massage therapy.
33 Such practices include, but are not limited to, the Feldenkrais Method® or somatic education, the
34 Rolf Institute's Rolf Movement Integration, the Trager Approach® to movement education, and

1 Body-Mind Centering®. Practitioners must be recognized by or meet the established standards of
2 either a professional organization or credentialing agency that represents or certifies the
3 respective practice based on a minimal level of training, demonstration of competency and
4 adherence to ethical standards.

5 (7) Nothing in the section shall be construed to prevent or restrict the practice of any
6 person in this state who uses touch to affect the energy systems, acupoints or Qi meridians
7 (channels of energy) of the human body while engaged within the scope of practice of a
8 profession with established standards and ethics, provided that his or her service is not designated
9 or implied to be massage or massage therapy. Such practices include, but are not limited to,
10 Polarity, Polarity Therapy, Polarity Bodywork Therapy, Rosen Method, Asian Bodywork
11 Therapy, Acupressure, Jin Shin Do®, Qi Gong, Reiki and Shiatsu. Practitioners must be
12 recognized by or meet the established standards of either a professional organization or
13 credentialing agency that represents or certified the respective practice based on a minimal level
14 of training., demonstration of competency and adherence to ethical standards.

15 **23-20.8-10. Enforcement.** -- Except for the provisions of ~~section 23-20.8-11~~ section 23-
16 20.8-11 this chapter shall be enforced by the director of health.

17 **23-20.8-11. Penalties.** -- (a) Any person who practices massage or acts in any capacity
18 where a license is required by this chapter, ~~without a license provided for in this chapter,~~ shall be
19 guilty of a misdemeanor and subject to a fine of up to one thousand dollars (\$1,000) or thirty (30)
20 days in jail.

21 (b) Any owner, operator, manager, or licensee in charge of or in control of a massage
22 therapy establishment who knowingly employs a person who is not licensed as a massage
23 therapist, or who allows an unlicensed person to perform, operate, or practice massage is guilty of
24 a misdemeanor and subject to a fine of up to ~~one thousand dollars (\$1,000)~~ five thousand dollars
25 (\$5,000) and thirty (30) days in jail.

26 (c) The practice of massage by a person without a license issued under this chapter is
27 declared to be a danger to the public health and welfare. In addition to any other civil, criminal, or
28 disciplinary remedy, the attorney general or prosecuting attorney of any municipality where the
29 person is practicing, or purporting to practice, may maintain an action to enjoin that person from
30 practicing massage until this person secures a valid license.

31 (d) [Deleted by P.L. 2008, ch. 100, art. 6, section 1].

32 SECTION 4. Section 23-20.8-8 of the General Laws in Chapter 23-20.8 entitled
33 "Licensing of Massage Therapy Establishments" is hereby repealed.

34 ~~**23-20.8-8. Access and inspection powers.** -- For the purpose of this chapter, the director~~

1 ~~or his or her duly authorized agents or employees shall at all reasonable times have authority to~~
2 ~~enter upon any and all parts of the premises on which any massage therapy establishment is~~
3 ~~located and of the premises appurtenant to these premises to make any examination or~~
4 ~~investigation for the purpose of determining whether the provisions of this chapter and any rules~~
5 ~~or regulations of the department are being violated.~~

6 SECTION 5. The title of Chapter 23-20.8 of the General Laws entitled "LICENSING
7 OF MASSAGE THERAPY ESTABLISHMENTS" is hereby amended to read as follows:

8 CHAPTER 23-20.8
9 ~~Licensing of Massage Therapy Establishments~~
10 LICENSING OF MASSAGE THERAPISTS

11 SECTION 6. This act shall take effect upon passage.

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LC01924/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF MASSAGE THERAPISTS

- 1 This act would make changes to the process of licensing of massage therapists.
- 2 This act would take effect upon passage.

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