

LOUISIANA REVISED STATUTES

TITLE 37. PROFESSIONS AND OCCUPATIONS

CHAPTER 57. MASSAGE THERAPISTS AND ESTABLISHMENTS

Current through all 2001 Regular and Extraordinary Session Acts

§3551. Short title

This Chapter shall be known and may be cited as the "Louisiana Massage Therapists and Massage Establishments Act".

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3552. Definitions

As used in this Chapter:

- (1) "**Board**" means the Louisiana Board of Massage Therapy.
- (2) "**Department**" means the Department of Health and Hospitals.
- (3) "**Massage establishment**" means any place of business in which massage therapy is practiced by a massage therapist.
- (4) "**Massage therapist**" means an individual who practices or administers massage therapy to a patron of either gender for compensation. The term shall include a therapeutic massage practitioner, massage technician, masseur, masseuse, or any derivation of those titles.
- (5) "**Massage therapy**" means the manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition. The term shall include effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, (active/passive range of motion), Shiatsu, and acupuncture, either by hand, forearm, elbow, foot, or with mechanical appliances for the purpose of body massage. Massage therapy may include the use of lubricants such as salts, powders, liquids, creams, (with the exception of prescriptive or medicinal creams), heat lamps, whirlpool, hot and cold pack, salt glow, or steam cabinet baths. It shall not include electrotherapy, laser therapy, microwave, colonic therapy, injection therapy, or manipulation of the joints. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, Shiatsu, body work, or any derivation of those terms. As used in this Chapter, the terms "therapy" and "therapeutic" shall not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

(6) **"Massage therapy instructor"** means an individual who is licensed as a massage therapist, who possesses credentials satisfactory to the board and who meets criteria established by the board pursuant to rule.

(7) **"Person"** means an individual, corporation, association, or other legal entity.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3553. Application of Chapter; exceptions

A. This Chapter shall apply to any person practicing as a massage therapist within the state of Louisiana.

B. This Chapter shall not apply to any services performed in hospitals licensed by the state. Nothing in this Chapter shall be construed as preventing or restricting the practice or activities of any person licensed in this state under any other law from engaging in the profession or occupation for which he is licensed. However, no person shall in any way hold himself out or designate himself as a massage therapist unless duly licensed by the board in accordance with this Chapter.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

Amended by Acts 1997, No. 567, 1, eff. July 3, 1997.

§3554. Louisiana Board of Massage Therapy; creation, membership, qualifications, terms, vacancies, officers, meetings, reimbursement, liability

A. (1) There is hereby created the Louisiana Board of Massage Therapy within the Louisiana Department of Health and Hospitals. It shall be composed of seven members appointed by the governor. Five licensed massage therapists shall be appointed from a list of nominees submitted to the governor by professional massage therapy associations. Two lay members shall be appointed from a list of nominees submitted to the governor by professional massage therapy associations.

(2) The massage therapists initially appointed to the board from nominations submitted to the governor by professional massage therapy associations shall be qualified to be licensed under this Chapter. The appointees shall have practiced massage therapy for at least three years and shall be required to obtain a license within one hundred eighty days after appointment to the board; thereafter, massage therapists appointed to the board shall be licensed as massage therapists under this Chapter and shall have been in practice for a minimum of three years.

(3) The initial members of the board shall be appointed by the governor not later than October 1, 1992.

B. Except as provided in Paragraph (1) of this Subsection, members of the board shall serve two-year terms. However, no member shall serve more than three consecutive terms. Board member terms are to be staggered as follows:

(1) The governor shall appoint three massage therapists and one lay person each to a term of one year beginning October 1, 2002. Thereafter in odd years the governor shall appoint three massage therapists and one lay person to the board.

(2) In even years the governor shall appoint two massage therapists and one lay person to the board.

C. A vacancy on the board occurring prior to expiration of a term shall be filled in the manner of the original appointment for the remainder of the term.

D. The board shall hold its first meeting within thirty days after October 1, 1992, and shall meet at least twice each year thereafter. Additional board meetings may be held at the call of the chairman or upon the written request of any three members of the board.

E. The board shall annually elect a chairman, vice chairman, secretary, and treasurer from its membership and shall maintain records of the attendance of its members at board meetings.

F. Each member of the board shall serve with compensation, not to exceed fifty dollars per day, and shall be reimbursed for travel and related expenses incurred, not to exceed those expenses authorized for reimbursement by the Department of Health and Hospitals, for each day that the member engages in board business.

G. No member of the board shall be liable to civil action for any act performed in good faith in the execution of his duties as a board member.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

Amended by Acts 2001, No. 387, 1, eff. August 15, 2001.

§3555. Powers and duties of the board

A. The board shall:

(1) Prescribe application forms for examination, licensure, and registration and assess and collect fees pursuant to R.S. 37:3562.

(2) Maintain a complete record of all licensed massage therapists and annually prepare a roster of the names and addresses of all such licensees. A copy of this roster shall be made available to any person requesting it, upon payment of a fee set by the board in an amount sufficient to cover the costs of its publication and distribution.

(3) Investigate persons who may be engaging in practices which violate provisions of this Chapter and impose fines and penalties.

(4) Adopt and revise rules and regulations pursuant to the Administrative Procedure Act for the purpose of administering the provisions of this Chapter. Such rules and regulations shall include rules relating to the definition of unprofessional conduct, as that term is further defined in R.S. 37:3563(A)(3).

(5) Issue declaratory rulings interpreting the scope of practice of massage therapy, as that term is further defined in R.S. 37:3552(5).

(6) Have all other powers necessary and proper for the performance of its duties.

B. The board may:

(1) Accept or deny entrance of any applicant applying for licensure or registration.

(2) Establish continuing education requirements for license renewal and criteria for certifying massage therapy instructors.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3556. Licensure; qualifications

A. (1) No person shall act as or perform the duties of a massage therapist unless he possesses a current license issued pursuant to this Chapter or is exempt under the provisions of this Chapter.

(2) A licensed massage therapist shall not perform massage therapy, whether or not for compensation, at or for a sexually oriented business, as defined in R.S. 37:3558(D).

(3) A licensed massage therapist shall not be directly employed by a person licensed to practice medicine or osteopathy pursuant to R.S. 37:1261 et seq.

B. A person desiring to be licensed as a massage therapist shall apply to the board to take the examination provided for in R.S. 37:3557. To be eligible to take the examination, an applicant shall pay the examination fee, except as otherwise provided in R.S. 37:3562(B), and shall submit evidence satisfactory to the board that he has met one of the following requirements:

(1) Has satisfactorily completed massage therapy studies in a minimum five hundred-hour supervised course of instruction. The course of instruction may be provided by a proprietary massage therapy school licensed by the state Department of Education. The minimum five hundred hours shall consist of three hundred twenty-five hours dedicated to the study of basic massage therapy techniques and clinical practicum-related modalities, one hundred twenty-five hours dedicated to the study of anatomy and physiology, and an additional fifty hours of discretionary related course work, including but not limited to hydrotherapy, business practices and professional ethics, health and hygiene, and cardiopulmonary resuscitation (CPR) and first aid.

(2) Has been in the practice of massage therapy for a minimum of three consecutive years prior to the date of application, provided that no person shall qualify to take the examination pursuant to the provisions of this Paragraph after March 1, 1998.

(3) Holds a valid license as a physical therapist pursuant to R.S. 37:2401 et seq.

(4) Has been licensed or registered as a massage therapist in another state, territory, commonwealth, or the District of Columbia which has and maintains standards and requirements of practice and licensure or registration which substantially conform to the requirements in force in this state, as determined by the board.

C. After review of the evidence submitted, the board shall notify each applicant that his application and such evidence is either satisfactory and accepted or unsatisfactory and rejected. If an application is rejected, such notice shall state the reasons for the rejection.

*Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992, except as to par. A(1), eff. Jan. 1, 1995.
Amended by Acts 1997, No. 1013, 1.*

§3557. Examination

A. Examination of applicants to be massage therapists shall be conducted at such times and places and under such supervision as the board determines by rule; however, examinations shall be conducted at least twice in each calendar year. The board shall give public notice and shall notify each person who has made satisfactory application for examination of the date, time, and place of examination.

B. The board shall determine by rule the scope, form, and content of the examination, which shall consist of both a written examination to test knowledge of anatomy and physiology and a practical demonstration or oral interview to verify skills necessary for the practice of massage therapy.

C. An applicant shall successfully pass the examination in order to be eligible for licensure as a massage therapist. The board shall notify each applicant of the results of the examination in writing. Any applicant who fails to pass the examination and is, therefore, refused licensure may take the examination again upon application and payment of an additional examination fee. No applicant shall be allowed to take the examination more than twice within a two-year period.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3558. Registration of massage establishments

A. A massage establishment shall register with the board as provided in the following:

(1) For physical addresses where only one massage therapist is practicing:

- (1) The professional massage license shall act as a registration certificate for the establishment;
- (2) Separate professional licenses will be issued for each physical address listed on the license application form or renewal application form; and
- (3) The professional license will cover all outcalls made from that physical address by the licensee.

(2) For physical addresses where more than one massage therapist is practicing:

- (1) A separate massage establishment registration certificate is required;
- (2) The responsibility for obtaining a massage establishment registration certificate shall belong to one of the following entities as it applies to the physical location: sole proprietor, lessee, owner, partnership, corporation, cooperative, association, or other legal entity; and
- (3) The establishment registration certificate shall cover all outcalls made from the physical address by massage therapists listed on the establishment registration.

B. (1) A sexually oriented business, as defined in Subsection C of this Section, shall be ineligible for registration as a massage establishment and shall not operate as a massage establishment.

(2) The physical address where a sexually oriented business is determined to be in operation shall be ineligible to house a registered massage establishment for a period of not less than two years following such a determination.

C. For purposes of this Chapter, "sexually oriented business" means a sex parlor, massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theatre, adult video arcade, adult motel, or other commercial enterprise which has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

D. A massage establishment shall employ only licensed massage therapists or provisionally licensed massage therapists to perform massage therapy.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992, except as to par. A(1) of the original Act, eff. Jan. 1, 1995.

Amended by Acts 2001, No. 387, 1, eff. August 15, 2001.

§3559. Applications; issuance of licenses and certificates of registration; referrals

A. Applications for licensure, registration, or renewal shall be on forms provided by the board and shall be accompanied by the fees specified in R.S. 37:3562.

B. The board shall issue a license to each person qualified as a massage therapist and a registration certificate to each qualified massage establishment. To be qualified for a license as a massage therapist, an applicant shall have successfully passed the examination provided for in R.S. 37:3557. Such a license or certificate grants all professional rights, honors, and privileges relating to the practice of massage therapy.

C. Each licensed massage therapist shall display his license in an appropriate public manner as specified by the board. In addition, each massage establishment shall post in plain sight its certificate of registration and the license of each massage therapist who practices in the massage establishment.

D. A license or registration certificate is the property of the board and shall be surrendered upon demand of the board.

E. Any license or massage establishment registration certificate shall be for the sole use and benefit of the licensee or location for whom it was issued and as such is nontransferable.

F. Changes to any license or registration certificate must be submitted to the board within thirty days on board-approved forms with the appropriate fees, if applicable, as per rule.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

Amended by Acts 2001, No. 387, 1, eff. August 15, 2001.

§3560. Provisional license; limited renewal

A. An applicant who possesses the qualifications specified in R.S. 37:3556(B)(1) to take the board examination may be granted a provisional license to engage in the practice of massage therapy until the date of the next examination and thereafter until the results of the examination are known.

B. An individual who has been issued a provisional license shall only practice massage therapy under the supervision of a licensed massage therapist.

C. Such provisional license may, at the discretion of the board, be renewed once.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3561. License or registration renewal; reinstatement; continuing education requirements

A. Each license or registration certificate, except a provisional license, shall be renewed annually, on or before the anniversary date, by forwarding to the board a renewal application accompanied by the payment of the renewal fee specified in R.S. 37:3562. Each licensee, upon making an application for renewal of a license, shall submit evidence of satisfactory completion of continuing education requirements, as established by rule of the board.

B. Any license or registration certificate not renewed on or before its anniversary date shall expire. However, a person whose license has lapsed and who has ceased activities as a massage therapist for not more than five years may have his license reinstated upon payment of the renewal fee and the late fee specified in R.S. 37:3562, upon submission of a renewal application and evidence satisfactory to the board that he has fulfilled continuing education requirements and passed the examination provided for in R.S. 37:3557.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3562. Fees

A. The board shall assess and collect fees as provided in this Section, including the following fees:

(1) Application fee	\$75.00
(2) Original massage therapist license fee:	\$125.00
(3) Annual license renewal fee:	\$125.00
(4) Annual license renewal (late fee):	\$100.00
(5) Original certificate of registration as a massage establishment fee:	\$100.00
(6) Annual certificate of registration as a massage establishment renewal fee:	\$100.00

(7) Annual certificate of registration as a massage establishment renewal fee, late fee:	\$100.00
(8) Provisional license fee:	\$25.00
(9) Directory fee:	\$50.00
(10) Duplicate license:	\$25.00
(11) Returned check fee:	\$25.00
(12) Copy fee: per page, plus postage and handling:	\$0.25
(13) Copies of statutes, rules and regulations:	\$15.00
(14) Continuing education provider biennial fee:	\$100.00
(15) Continuing education program approval fee:	\$50.00

B. If the board provides by rule or regulation for certifying massage therapy instructors, the board may set fees as part of such rules or regulations, not to exceed ten dollars for initial certification, ten dollars for annual renewal, fifty dollars for late applications less than thirty days late, and one hundred dollars for late applications thirty days late or more.

C. The fees established in this Section shall not be refundable except under such conditions as the board may establish.

D. All monies received by the board under this Chapter shall be paid into the treasury of the Louisiana Board of Massage Therapy and may be deposited into an account maintained by the board without appropriation for costs of administration and other expenses, and any surplus at the end of a fiscal year or a biennium may be retained by the board for future expenditures and the board is not required to pay such surplus into the general fund of the state of Louisiana.

E. All funds received and expended by the board shall be audited annually in accordance with R.S. 24:513. The annual audit shall be submitted annually to the Joint Legislative Committee on the Budget.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

Amended by Acts 1997, No. 493, 1, eff. July 3, 1997.

Amended by Acts 2001, No. 387, 1, eff. August 15, 2001.

§3563. Causes for suspension, revocation, or failure to renew or issue a license

A. The board may suspend, revoke, or refuse to issue or renew a license or registration certificate, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:

(1) Obtaining a license or registration certificate by means of fraud, misrepresentation, or concealment of material facts, including making false statements on an application or other document required by the board.

(2) Selling, bartering, or offering to sell or barter a license or registration certificate.

(3) Engaging in unprofessional conduct that has endangered or which is likely to endanger the health, welfare, or safety of the public, as further defined by rules of the board.

(4) Conviction of a felony or any crime arising out of or connected with the practice of massage therapy, unless such conviction was reversed on appeal.

(5) Violating or aiding and abetting in the violation of any provisions of this Chapter or the rules and regulations promulgated hereunder.

(6) Failing to pass the examination for licensure.

B. Any person who has been convicted of, entered a plea of nolo contendere to, or received deferred adjudication to crimes or offenses involving prostitution or sexual offenses shall be ineligible for licensure as a massage therapist or a massage therapy instructor. The board shall revoke the license of any person who is convicted of, enters a plea of nolo contendere to, or receives deferred adjudication to a crime or offense involving prostitution or other sexual offenses.

C. Any person who has been convicted of, entered a plea of nolo contendere to, or received deferred adjudication to crimes or offenses involving prostitution or sexual offenses shall be ineligible for registration as an owner or operator of a massage establishment. The board shall revoke the registration of any person if the board determines that the establishment is a sexually oriented business, as defined in R.S. 37:3558(D), or that a crime or offense involving prostitution or other sexual offenses and resulting in a conviction, to which a plea of nolo contendere was entered, or deferred adjudication was received has occurred on the premises of the establishment since the date of the most recent renewal of the registration certificate.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3564. Regulation of advertising

A. A person who does not hold a license as a massage therapist, physical therapist, chiropractor, or athletic trainer or a certificate of registration as a massage establishment shall not use the words "massage", "shiatsu", or "body work" on any sign or other form of advertising. Any advertisement by a massage therapist or a massage establishment shall contain the license or registration number of such therapist or establishment.

B. Under no circumstances shall a sexually oriented business, as defined in R.S. 37:3558(D), use the word "massage", "shiatsu", or "body work" on any sign or other form of advertising.

Added by Acts 1992, No. 753, 2, eff. Jan. 1, 1995.

§3565. Penalties

A. Any person, including the owner or operator of a massage establishment, who violates the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

B. A person convicted of a violation of the provisions of this Chapter shall additionally be ineligible for licensure as a massage therapist or registration as a massage establishment for a period of five years from the date of conviction.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3566. Injunction

A. In addition to the actions and penalties otherwise provided for by this Chapter, the board may cause to issue in any court of competent jurisdiction an injunction without bond enjoining any person from violating or continuing to violate the provisions of this Chapter.

B. In the suit for an injunction, the board may demand of the defendant a penalty of fifty dollars per day for each violation, reasonable attorney fees, and the costs of court.

C. The judgment for penalty, attorney fees and court costs may be rendered in the same judgment in which the injunction is made absolute. If the board brings an action against someone pursuant hereto and fails to prove its case, then it shall be liable to such person for the payment of his attorney fees and costs.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.

§3567. Effect on local regulations

A. Except as otherwise provided by Subsection B of this Section, the provisions of this Chapter shall supersede any regulation adopted by a political subdivision of the state relating to the licensing or regulation of massage therapists or massage establishments.

B. This Chapter shall not affect:

(1) Local regulations relating to zoning requirements or occupational license taxes pertaining to massage therapists or massage establishments.

(2) Any local regulations that do not relate to the practice of massage therapy as performed by a licensed massage therapist, including those professions specified in R.S. 37:3553, while performing duties pursuant to their professions while working with a licensed massage therapist.

Added by Acts 1992, No. 753, 2, eff. Sept. 1, 1992.