

RÉSUMÉ DIGEST

ACT 324 (HB 531)

2021 Regular Session

Pressly

New law mandates the La. Board of Massage Therapy (board) to submit fingerprint cards and other identifying information of persons seeking licensure to the La. Bureau of Criminal Identification and Information and requires the bureau, upon receipt of the fingerprints and other identifying information, to produce all conviction information contained within its criminal history record and identification files. Requires that the fingerprints be forwarded to the Federal Bureau of Investigation in order to have a nationwide criminal history record check performed.

Existing law provides that the practice of massage therapy includes stroking, kneading, percussion, compression, vibration, acupressure, reflexology, and Swedish massage. Existing law provides that the practice of massage therapy may include the use of lubricants such as salts, powders, liquids, creams with the exception of prescriptive or medicinal creams, heat lamps, hot and cold stones, whirlpools, hot and cold packs, salt glows, body wraps, or steam cabinet baths. New law provides that massage therapy may include, with appropriate training, the use of certain electromechanical devices.

Prior law provided that electrotherapy is not a practice of massage therapy. New law deletes prior law and instead provides that ultrasounds, the use of electrical muscle stimulation, or transcutaneous electrical nerve stimulation are not considered practice of massage therapy.

Existing law relative to massage therapists provides that nothing therein shall be construed as preventing or restricting the practice of any person licensed or certified under existing law relative to another profession from engaging in that profession. New law retains existing law and adds thereto a prohibition on any such person holding himself out to the public as a licensed massage therapist.

Existing law sets forth the powers and duties of the board. Requires the board to adopt and revise administrative rules and regulations for the purpose of administering existing law.

New law retains existing law and requires the board to initiate promulgation of rules and regulations within 120 days following any new changes to existing law.

New law adds to existing law the following powers and duties of the board:

- (1) Prioritize inspections and incorporate risk factors for complaints made to the board regarding any unlicensed activity by massage therapists or massage establishments.
- (2) Utilize all legally available news outlets to identify unauthorized activity of a massage therapist or massage establishment.
- (3) Evaluate the performance of inspection contractors who inspect massage establishments.
- (4) Include in the inspection protocol a list of observations by which inspectors can determine if a massage establishment is possibly operating as a sexually oriented business.
- (5) Develop a process to identify any unlicensed activity of a person who is not licensed by the board.
- (6) Develop a process to review all complaints made to the board.
- (7) Develop a process to monitor massage establishments that have been notified to cease operations in accordance with existing law.
- (8) Develop guidance to follow a consistent and objective approach to protect the public from massage therapists who are disciplined in accordance with existing law.

- (9) Submit the names of new applicants for licensure to the La. Bureau of Criminal Identification and Information to conduct state and federal criminal background checks.

Existing law provides that a person who holds a valid, current, and unexpired license or registration to engage in the practice of massage therapy in another state, territory, commonwealth, or the District of Columbia and has maintained the standards and requirements of practice and licensure or registration that substantially conform to the requirements enforced in this state shall not have to pay the application fee and submit evidence satisfactory to the board to become licensed in this state. New law retains existing law and adds a requirement that the board verify the validity of the documents submitted with that state's licensing or registration agency and obtain any transcript information directly from the school identified by the applicant.

Existing law requires the licensees to renew their licenses annually and meet the continuing education requirements established in the rules of the board.

New law retains existing law and stipulates that, beginning with the April 1, 2022, renewal cycle, any excess continuing education credits may be applied to the year following year only if a licensee has satisfied the license renewal requirements.

New law further requires renewing applicants to submit to state and federal background checks.

Existing law sets forth the grounds for and methods of discipline of a licensee and by the board.

New law retains existing law and adds a requirement that the board perform a review of any massage therapist who has been disciplined in accordance with existing law within one calendar year of the infraction or reinstatement of license. Requires the board to immediately suspend a license pending a disciplinary hearing for any review of a massage therapist which reveals any violation of existing law.

New law requires the board to perform an inspection of any massage establishment that has been disciplined in accordance with existing law within one calendar year of the infraction or reinstatement of license. The board shall immediately suspend a license or registration of an establishment for failure of a follow-up inspection.

New law requires the board to impose a fine or penalty on massage establishments that continue to operate without a license, and that the board shall promulgate in rule the amount of the fine or penalty to be incurred.

New law requires the board to conduct training for its board members, staff, and contract inspectors on how to identify human trafficking. Further requires the board to coordinate with law enforcement agencies or other stakeholders to help address any activity related to human trafficking in the massage industry.

New law requires that human trafficking training opportunities provided for in new law shall commence no later than 90 days following the effective date of new law and continue on an annual basis thereafter. Provides that failure to participate in training shall be grounds for removal of board members, discipline of staff persons, or termination of the contract of an inspector.

Effective upon signature of governor (June 14, 2021).

(Amends R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(intro. para.) and (2), and (D), and 3561(A); Adds R.S. 15:587(A)(1)(k) and R.S. 37:3555(A)(6)-(14), 3556(B)(3), 3563(E)-(G), and 3568; Repeals R.S. 37:3562(A)(8) and (B))