

2016 Regular Session

HOUSE BILL NO. 792

BY REPRESENTATIVE ADAMS

MASSAGE THERAPISTS: Provides relative to the regulation of massage therapists

1 AN ACT

2 To amend and reenact R.S. 37:3552(10) and 3556(A)(introductory paragraph), (1)(a), and
3 (2) through (6) and (B) through (E), to enact R.S. 37:3555(C), 3556(F), 3558(E),
4 3560, 3561(F), 3564(C), and 3567(C), and to repeal 37:3556.1, relative to the
5 regulation of massage therapists and establishments; to amend definitions; to prohibit
6 certain acts of unlicensed support personnel; to specify a time frame for initial
7 inspections of establishments; to provide certain revisions with respect to license
8 qualifications; to provide relative to out-of-state licensees; to provide for the
9 regulation of advertisement; to authorize and prohibit certain enforcement by state
10 and local officials; to repeal exemptions with respect to persons licensed out-of-state;
11 to repeal an expired provision of law; to require rule promulgation; to provide for an
12 effective date; to make technical corrections; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 37:3552(10) and 3556(A)(introductory paragraph), (1)(a), and (2)
15 through (6) and (B) through (E) are hereby amended and reenacted and R.S. 37:3555(C),
16 3556(F), 3558(E), 3560, 3561(F), 3564(C), and 3567(C) are hereby enacted to read as
17 follows:

1 §3552. Definitions

2 As used in this Chapter:

3 * * *

4 (10) "Practice of massage therapy" means the manipulation of soft tissue for
5 the purpose of maintaining good health and establishing and maintaining good
6 physical condition. The practice of massage therapy shall include advertising or
7 offering to engage in the practice of massage therapy and holding oneself out or
8 designating oneself to the public as a massage therapist or massage establishment.
9 The practice of massage therapy shall include effleurage (stroking), petrissage
10 (kneading), tapotement (percussion), compression, vibration, friction (active/passive
11 range of motion), stretching activities as they pertain to massage therapy, Shiatsu,
12 acupressure, reflexology, trigger point massage, and Swedish massage either by
13 hand, forearm, elbow, foot, or with mechanical appliances for the purpose of body
14 massage. Massage therapy may include the use of lubricants such as salts, powders,
15 liquids, creams with the exception of prescriptive or medicinal creams, heat lamps,
16 hot and cold stones, whirlpool, hot and cold packs, salt glow, body wraps, or steam
17 cabinet baths. It shall not include electrotherapy, laser therapy, microwave, colonic
18 therapy, injection therapy, or manipulation of the joints. Equivalent terms for
19 massage therapy are massage, therapeutic massage, massage technology, body work,
20 or any derivation of those terms. As used in this Chapter, the terms "therapy" and
21 "therapeutic" shall not include diagnosis, the treatment of illness or disease, or any
22 service or procedure for which a license to practice medicine, chiropractic, physical
23 therapy, or podiatry is required by law.

24 * * *

25 §3556. Licensure; qualifications

26 A. No person shall engage in the practice of massage therapy without a
27 current license issued pursuant to this Chapter unless such person is exempt under
28 the provisions of this Chapter. ~~To~~ Except as provided for in Subsection C of this
29 Section, to receive a massage therapist license in the state of Louisiana, an applicant

1 shall pay the application fee pursuant to R.S. 37:3562 and shall submit evidence
2 satisfactory to the board of meeting the following requirements:

3 (1)(a) ~~Has satisfactorily completed~~ The satisfactory completion of a
4 minimum of a five hundred hour in-class supervised course of studies pursuant to
5 rules promulgated by the board in accordance with the Administrative Procedure
6 Act.

7 * * *

8 (2) ~~Has passed~~ Passage of a national examination approved by the board
9 under R.S. 37:3557 within two years from the date the application is filed.

10 (3) ~~Is a citizen~~ Citizenship or legal ~~resident of~~ residency in the United States
11 and ~~has~~ the ability to read, write, speak, and understand English fluently.

12 (4) ~~Has not, within~~ Within the five years preceding the date of the
13 application, the applicant has not been convicted of a nonviolent felony.

14 (5) ~~Has~~ The applicant has never been convicted of or pled nolo contendere
15 to a violent felony or a criminal offense involving sexual misconduct.

16 (6) ~~Has~~ The applicant has submitted to and cleared a background check.

17 B. The requirements set forth in R.S. 37:3556(A)(1) and (2) shall not apply
18 to ~~either of the following~~:

19 (1) ~~Persons~~ persons who have continuously held a license to engage in the
20 practice of massage therapy issued by the board since March 1, 1998.

21 (2) ~~Persons who hold a valid, current, and unexpired license or registration~~
22 ~~to engage in the practice of massage therapy in another state, territory,~~
23 ~~commonwealth, or the District of Columbia that has and maintains standards and~~
24 ~~requirements of practice and licensure or registration that substantially conform to~~
25 ~~the requirements in force in this state, as determined by the board.~~

26 C. To receive a massage therapist license in the state of Louisiana via the
27 transfer of an existing out-of-state license, an applicant with out-of-state credentials
28 shall pay the application fee pursuant to R.S. 37:3562 and shall submit evidence
29 satisfactory to the board of meeting the following requirements:

1 (1)(a) The satisfactory completion of a minimum of a five hundred hour
2 in-class supervised course of studies pursuant to rules promulgated by the board in
3 accordance with the Administrative Procedure Act.

4 (b) The board may request other documentation of studies or a portfolio
5 review for those transferees whose educational documentation is unavailable.

6 (2)(a) Passage of a national examination approved by the board pursuant to
7 R.S. 37:3557.

8 (b) All test results presented for an initial licensure shall be directly received
9 by the board from the issuing agency such as the Federation of State Massage
10 Therapy Boards.

11 (3)(a) Citizenship or legal residency in the United States and the ability to
12 read, write, speak, and understand English fluently.

13 (b) As proof of citizenship or legal residency, the applicant shall present in
14 person an original government-issued form of picture identification, such as a
15 driver's license, and a social security card.

16 (c) A verbal jurisprudence test shall be administered by the board or an
17 assigned representative thereof.

18 (4) Within the five years preceding the date of the application, the applicant
19 has not been convicted of a nonviolent felony.

20 (5) The applicant has never been convicted of or pled nolo contendere to a
21 violent felony or a criminal offense involving sexual misconduct.

22 (6) The applicant has submitted to and cleared a background check.

23 ~~C.~~ D. After review of the evidence submitted, the board shall notify each
24 applicant that his application and such evidence is accepted or rejected. If an
25 application is rejected, such notice shall state the reasons for the rejection.

26 ~~D.~~ E. The board shall issue a license to each person who meets the
27 qualifications provided for in this Section upon payment of the professional license
28 fee provided pursuant to R.S. 37:3562. The license, in the form of a Licensed

1 Massage Therapist Identification Card (LMT-ID Card), grants all professional rights,
2 honors, and privileges to the licensed massage therapist.

3 E. F. Each license granted shall have a validity period of one calendar year
4 and shall have an expiration date as determined by administrative rules promulgated
5 by the board.

6 * * *

7 §3558. Massage establishments; license; initial inspection

8 * * *

9 E. The board shall perform an initial inspection of a newly licensed massage
10 establishment no later than ninety days from the date of application. The board shall
11 endeavor to perform the initial inspection no later than sixty days from the date of
12 application.

13 * * *

14 §3560. Unlicensed persons; prohibited acts

15 A. No support personnel unlicensed pursuant to the provisions of this
16 Chapter shall purport to be a licensed massage therapist or offer stand-alone massage
17 services to the public, with or without supervision of a person who holds a
18 professional or occupational license pursuant to the provisions of Title 37 of the
19 Louisiana Revised Statutes of 1950.

20 B. The provisions of Subsection A of this Section shall not apply to massage
21 services provided in massage clinics during the course of massage therapy education
22 and training approved by the Board of Regents.

23 §3561. License renewal requirements

24 * * *

25 F. In addition to the requirements in Subsection A of this Section, all persons
26 who received a license via the transfer of an existing out-of-state license since
27 January 1, 2013, shall provide satisfactory evidence of all requirements provided for
28 in R.S. 37:3556(C).

29 * * *

1 §3564. Regulation of advertising

2 * * *

3 C. In all pictorial representations for any advertisement representing massage
4 therapy, including such representations through video, all persons representing
5 massage therapists shall be attired and posed in a manner as to avoid appealing to the
6 prurient interest. Persons representing clients shall be appropriately draped and
7 posed.

8 * * *

9 §3567. Effect on local regulations

10 * * *

11 C. Nothing in this Section shall prevent local or state law enforcement
12 representatives or municipal or city officials from assisting in the enforcement of this
13 Chapter. However, such representatives and officials are prohibited from imposing
14 any additional rules or ordinances regarding zoning, educational requirements, or
15 fees for licensure.

16 Section 2. R.S. 37:3556.1 is hereby repealed in its entirety.

17 Section 3. The Louisiana Board of Massage Therapy shall promulgate all rules
18 necessary for the implementation of the provisions of this Act before January 1, 2017.

19 Section 4. The provisions of R.S. 37:3561(F) as enacted by this Act shall apply to
20 the 2017 license renewal cycle and all subsequent license renewals.

21 Section 5. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 792 Reengrossed

2016 Regular Session

Adams

Abstract: Provides for the licensure and regulation of massage therapists and massage therapy establishments.

Present law defines the practice of massage therapy as the manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition and provides for certain types of massage therapy such as acupuncture and reflexology.

Proposed law retains present law and adds trigger point massage as a type of massage therapy.

Proposed law requires the La. Board of Massage Therapy (board) to provide an initial inspection of all newly licensed massage establishments within 90 days of the date of application. Further requires the board to endeavor to provide the initial inspection within 60 days.

Proposed law prohibits unlicensed support personnel from purporting to be a licensed massage therapist or offering stand alone massage services to the public unless the massage services are provided in massage clinics during the course of massage therapy education and training approved by the Board of Regents.

Present law provides for the licensing requirements for applicants seeking licensure by the board. Proposed law retains present law.

Present law requires an applicant to pass a board-approved national examination. Proposed law retains present law and further requires the board to receive test scores for an applicant with out-of-state credentials directly from the issuing agency of the exam.

Present law requires an applicant to be a U.S. citizen or legal resident. Proposed law retains present law and further requires proof of citizenship or legal residency for an applicant with out-of-state credentials by the applicant providing an original government-issued form of identification. Further requires the board to verify the validity of the identification.

Present law requires an applicant to have fluency in the English language. Proposed law retains present law and further requires applicants to pass an English proficiency test if the person is transferring an out-of-state license.

Beginning with the 2017 renewal cycle for licenses, proposed law requires persons who received a license by transferring an out-of-state license since Jan. 1, 2013, to show proof of all of the proposed law licensing requirements.

Present law regulates the advertising of massage therapy. Proposed law retains present law and requires advertisements containing pictorial representations of massage therapy, including video representations, to have depictions of massage therapists who are attired and posed in a manner as to avoid appealing to the prurient interest. Further requires persons representing clients to be appropriately draped and posed.

Proposed law authorizes state, municipal, or city enforcement representatives or officials to enforce provisions of present law and proposed law made applicable to massage therapists

and establishments. Prohibits such representatives or officials from imposing any additional rules or ordinances regarding zoning, educational requirements, or fees for licensure.

Proposed law repeals a present law provision that exempted an out-of-state applicant from taking a certain board-approved 500-hour course and national examination.

Proposed law repeals an expired provision regarding credit hours of courses of study.

Proposed law requires the board to promulgate all rules necessary for the implementation of proposed law before Jan. 1, 2017.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 37:3552(10), 3556(A)(intro. para.), (1)(a), and (2)-(6), and (B)-(E); Adds R.S. 37:3555(C), 3556(F), 3558(E), 3560, 3561(F), 3564(C), and 3567(C); Repeals R.S. 37:3556.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Make technical changes and corrections.
2. Require at least half of the required continuing education hours to consist of board-approved, in-class supervised training.
3. Clarify that proposed law applies to applicants seeking licensure via the transfer of an existing out-of-state license.
4. Delete the requirement that the national exam be passed within two years from date of application.
5. Require an applicant to present an original form of identification instead of a copy.
6. Provide examples of an approved English language proficiency test.
7. Increase the time limit for the initial inspection of an establishment from 45 days to 60 days.
8. Authorize the practice of massage therapy by nonlicensed persons if the massage services are provided in massage clinics during the course of massage therapy education and training approved by the board.
9. Require the board to seek an injunction against violators.
10. Limit the applicable time period which requires a person licensed during that time to show proof of qualification prior to renewal.
11. Require the board to timely promulgate administrative rules.
12. Make proposed law effective upon signature of the governor.

The House Floor Amendments to the engrossed bill:

1. Change trigger point therapy to trigger point massage.

2. Delete proposed law relative to continuing education.
3. Restore present law relative to the initial licensure and renewal of applicants with in-state credentials.
4. Change the time limit for the initial inspection of an establishment from 60 days from the date of opening to 90 days from the date of application.
5. Change the advertising prohibition that models not be posed in a seductive manner to a prohibition that the models be posed in a manner as to avoid appealing to the prurient interest.
6. Remove the requirement that the board seek an injunction against violators.
7. Make technical changes.