

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), 3555(A)(2) and (B)(2), 3556(A)(introductory
3 paragraph) and (1)(a) and (2) through (6) and (B)(1), to enact R.S. 37:3553(B)(3),
4 3556(A)(7), 3561(F), 3564(C), and 3567(C), and to repeal R.S. 37:3556(B)(2) and
5 3556.1(B), relative to the regulation of massage therapists and establishments; to
6 amend definitions; to prohibit certain acts of unlicensed support personnel; to specify
7 a time frame for initial inspections of establishments; to provide with respect to
8 continuing education; to provide certain revisions with respect to license
9 qualifications; to provide relative to out-of-state licensees; to provide for the
10 regulation of advertisement; to authorize and prohibit certain enforcement by state
11 and local officials; to repeal exemptions with respect to persons licensed out-of-state;
12 to repeal an expired termination date; to make technical corrections; and to provide
13 for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 37:3552(10), 3555(A)(2) and (B)(2), 3556(A)(introductory
16 paragraph) and (1)(a) and (2) through (6) and (B)(1) are hereby amended and reenacted
17 and R.S. 37:3553(B)(3), 3556(A)(7), 3561(F), 3564(C), and 3567(C) are hereby enacted to
18 read as follows:

19 §3552. Definitions

20 As used in this Chapter:

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

21 * * *

22 §3553. Application of Chapter; exceptions and exemptions; prohibitions

23 * * *

24 B.

25 * * *

26 (3) It is a prohibited act for any support personnel unlicensed pursuant to the
 27 provisions of this Chapter to purport to be a licensed massage therapist or to offer
 28 stand alone massage services to the public, with or without supervision, of a

1 supervising licensed person who holds a professional or occupational license
2 pursuant to the provisions of Title 37 of the Louisiana Revised Statutes of 1950.

3 * * *

4 §3555. Powers and duties of the board; initial inspections

5 A. The board shall:

6 * * *

7 (2) Perform inspections and investigate persons who may be engaging in
8 practices which violate provisions of this Chapter and impose fines and penalties.
9 All newly licensed massage establishments shall receive an initial inspection by the
10 board within forty-five days of the date of opening.

11 * * *

12 B. The board may:

13 * * *

14 (2) Establish continuing education requirements for license renewal.
15 Proposed continuing education classes shall be approved by at least one appointed
16 board member.

17 §3556. Licensure; qualifications

18 A. No person shall engage in the practice of massage therapy without a
19 current license issued pursuant to this Chapter unless such person is exempt under
20 the provisions of this Chapter. All persons with out-of-state license credentials
21 applying for a license in this state shall show proof of the requirements provided in
22 Paragraphs (1) through (7) of this Subsection. To receive a massage therapist license
23 in the state of Louisiana, an applicant shall pay the application fee pursuant to R.S.
24 37:3562 and shall submit evidence satisfactory to the board of meeting the following
25 requirements:

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

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(2) ~~Has passed~~ Passage of a national examination approved by the board under R.S. 37:3557 within two years from the date the application is filed. All test results shall be directly received by the board from the issuing agency such as the Federation of State Massage Therapy Boards.

(3) ~~Is a citizen or legal resident of the United States and has the ability to read, write, speak, and understand English fluently.~~ Citizenship or legal residency in the United States. As proof of citizenship or legal residency, the applicant shall submit a copy of a government issued form of identification, such as a drivers license or social security card. A board or staff member shall ensure the validity of the submitted identification through the contact information associated with the identification or through use of an electronic database.

(4) The ability to read, write, speak, and understand English fluently. All persons with out-of-state license credentials applying for a license in this state shall pass an English proficiency test to be administered by a board member, staff member, or an assigned representative of the board.

~~(4)(5)~~ Has not, within Within the five years preceding the date of the application, the applicant has not been convicted of a nonviolent felony.

~~(5)(6)~~ Has The applicant has never been convicted of or pled nolo contendere to a violent felony or a criminal offense involving sexual misconduct.

~~(6)(7)~~ Has The applicant has submitted to and cleared a background check.

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

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

* * *

§3561. License renewal requirements

* * *

F. Beginning with the 2017 renewal cycle, in addition to the requirements in Subsection A of this Section, all persons who received an out-of-state license

1 during the previous ten years shall provide satisfactory evidence of all requirements
2 stated in R.S. 37:3556(1) through (7).

3 * * *

4 §3564. Regulation of advertising

5 * * *

6 C. In all pictorial representations for any advertisement representing
7 massage therapy, including such representations through video, all persons
8 representing massage therapists shall be professionally attired and not posed in a
9 seductive fashion. Persons representing clients shall be appropriately draped and
10 posed.

11 * * *

12 §3567. Effect on local regulations

13 * * *

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

19 Section 2: R.S. 37:3556(B)(2) and 3556.1(B) are hereby repealed in their entirety.

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 Original

2016 Regular Session

Adams

Abstract: Makes changes to law applicable to massage therapists and respective establishments.

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

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

Proposed law prohibits unlicensed support personnel from acts of purporting to be massage therapists and the offering of stand alone massage services to the public with or without supervision of a supervising licensed professional.

Proposed law provides for the Louisiana Board of Massage Therapy's (board) initial inspection of all newly licensed massage establishments within 45 days of the date of the establishment's opening.

Present law provides for continuing education with respect to massage therapists. Proposed law retains present law and requires continuing education classes to be approved by at least 1 appointed board member.

Present law provides certain licensing requirements for applicants seeking licensing from the board. Proposed law retains present law.

Present law requires an applicant's passage of a board approved national examination. Proposed law retains present law and further requires the board to receive applicants' test scores directly from the issuing agency of the exam.

Present law requires an applicant's U.S. citizenship or legal residency. Proposed law retains present law and further provides for proof of citizenship or legal residency to be provided through the applicant's submitted copy of a government issued form of ID. Further requires a board or staff member to verify the validity of the ID.

Present law requires an applicant's certain fluency in the English language. Proposed law retains present law and further requires applicants to pass a board-administered English proficiency test if the person is licensed out-of-state.

Beginning with the 2017 renewal cycle for licenses, proposed law requires persons who were licensed outside of the state of La. within the last 10 years to meet the licensing requirements in both present law and proposed law.

Present law provides for certain regulations with respect to advertising of massage therapy. Proposed law retains present law and adds that advertisements of pictorial representations of massage therapy, including video representations, are to contain depictions of massage therapists who are professionally attired and non-seductively posed. Further requires for 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 termination date with respect to credit hours of courses of study.

(Amends R.S. 37:3552(10), 3555(A)(2) and (B)(2), 3556(A)(intro. para.) and (1)(a) and (2) through (6) and (B)(1); Adds R.S. 37:3553(B)(3), 3556(A)(7), 3561(F), 3564(C), and 3567(C); Repeals R.S. 37:3556(B)(2) and 3556.1(B))