

2021 Regular Session

HOUSE BILL NO. 531

BY REPRESENTATIVES PRESSLY AND HILFERTY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BOARDS/COMMISSIONS: Provides relative to the Louisiana Board of Massage Therapy

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AN ACT

To amend and reenact R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(2), and (D), and 3562(A)(2) and (3), to enact R.S. 37:3555(A)(6) through (14), 3556(B)(3), 3561(A)(1), 3563(E) through (G), and 3568, and to repeal R.S. 37:3562(A)(8) and (B), relative to massage therapists; to provide for massage therapy techniques; to provide for persons who are not licensed or certified as a massage therapist; to revise the powers and duties of the Louisiana Board of Massage Therapy; to provide for the performance of state and federal criminal backgrounds of prospective licensees; to provide for military personnel and their spouses who relocate to this state; to provide for the issuance of a license to a licensee; to provide for continuing education requirements; to increase certain fees assessed by the board; to provide for inspections of massage establishments; to provide discipline for those massage establishments that operate as a sexually oriented business; to provide for fines and penalties to be imposed by the board; to provide for violations and grounds for discipline of massage therapists and massage establishments; to provide for human trafficking training; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(2), and (D), and 3562(A)(2) and (3) are hereby amended and reenacted and R.S. 37:3555(A)(6) through (14),

1 3556(B)(3), 3561(A)(1), 3563(E) through (G), and 3568 are hereby enacted to read as
2 follows:

3 §3552. Definitions

4 As used in this Chapter:

5 * * *

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

27 * * *

28 §3553. Application of Chapter; exceptions and exemptions

29 * * *

1 C. Nothing in this Chapter shall be construed as preventing or restricting the
 2 practice of any person licensed or certified in this state under any other law from
 3 engaging in the profession or occupation for which he is licensed or certified.
 4 However, a person licensed or certified in this state under any other law shall not
 5 hold himself out to the public as a licensed or certified massage therapist under the
 6 provisions of this Chapter.

7 * * *

8 §3555. Powers and duties of the board

9 A. The board shall:

10 * * *

11 (4) Adopt and revise rules and regulations pursuant to the Administrative
 12 Procedure Act for the purpose of administering the provisions of this Chapter. Such
 13 rules and regulations shall be promulgated within ninety days following any new
 14 changes to provisions of this Chapter

15 * * *

16 (6) Prioritize inspections and incorporate risk factors for complaints made
 17 to the board regarding any unlicensed activity by massage therapists or massage
 18 establishments.

19 (7) Review news articles regarding unauthorized activity of a massage
 20 therapist or massage establishment.

21 (8) Monitor the performance of inspection contractors who inspect massage
 22 establishments.

23 (9) Perform inspections to determine if a massage establishment is operating
 24 as a sexually-oriented business.

25 (10) Develop a process to identify any unlicensed activity of a person who
 26 is not licensed by the board.

27 (11) Develop a process to review all complaints made to the board.

28 (12) Develop a process to monitor massage establishments who have been
 29 notified of violations in accordance with R.S. 37:3563.

1 (13) Develop guidance to follow a consistent and objective approach to
2 properly protect the public from massage therapists who are disciplined in
3 accordance with R.S. 37:3563.

4 (14) Submit the names of new applicants for licensure to the Louisiana
5 Bureau of Criminal Identification and Information of the office of state police within
6 the Department of Public Safety and Corrections for criminal background checks.
7 Upon the board's submission of an applicant's fingerprints and such other identifying
8 information as may be required, the Louisiana Bureau of Criminal Identification and
9 information of the office of state police within the Department of Public Safety and
10 Corrections shall survey its criminal history records and identification files and make
11 a simultaneous request of the Federal Bureau of Investigation for like information
12 from other jurisdictions. The Louisiana Bureau of Criminal Identification and
13 Information of the office of state police within the Department of Public Safety and
14 Corrections may charge the board a reasonable processing fee for conducting and
15 reporting on any such search.

16 * * *

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. To receive a massage therapist license in the state of
21 Louisiana, an applicant shall pay the application fee pursuant to R.S. 37:3562 and
22 shall submit evidence satisfactory to the board of meeting the following
23 requirements:

24 * * *

25 (6) Has submitted to and cleared a background check as set forth in R.S.
26 37:3555(A)(14).

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

29 * * *

1 (2) Persons who hold a valid, current, and unexpired license or registration
2 to engage in the practice of massage therapy in another state, territory,
3 commonwealth, or the District of Columbia that has and maintains standards and
4 requirements of practice and licensure or registration that substantially conform to
5 the requirements in force in this state, as determined by the board. The board shall
6 verify the validity of the documents submitted with that state's licensing or
7 registration agency and obtain any transcript information directly from the school
8 identified by the applicant.

9 (3) Persons who are active or retired military personnel and relocate to this
10 state or his spouse who possesses a license from another state with substantially
11 equivalent licensing requirements pursuant to the provisions of this Chapter.

12 * * *

13 D. The board shall issue and deliver a license to each person who meets the
14 qualifications provided for in this Section upon payment of the professional license
15 fee provided pursuant to R.S. 37:3562. The license shall include a recent photo of
16 the licensee. The license, in the form of a Licensed Massage Therapist Identification
17 Card (LMT-ID Card), which contains an available anti-copy watermark or
18 lamination, shall ~~grants~~ grant all professional rights, honors, and privileges to the
19 licensed massage therapist.

20 * * *

21 §3561. License renewal requirements

22 A.

23 * * *

24 (1) Beginning with the renewal cycle of April 1, 2022, any excess continuing
25 education credits may only be applied to the following year after a licensee has
26 satisfied the license renewal requirements.

27 * * *

1 §3562. Fees

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

4		* * *	
5	(2)	Original massage therapist license fee	\$125.00 <u>150.00</u>
6	(3)	Annual license renewal fee	\$125.00 <u>150.00</u>

7 * * *

8 §3563. Grounds for discipline

9 * * *

10 E. The board shall perform an inspection of any massage therapist that has
11 been disciplined in accordance with this Section within one calendar year of the
12 infraction or reinstatement of license. The board shall immediately suspend a license
13 pending a disciplinary hearing for any inspection of a massage therapist that reveals
14 any violations of this Section.

15 F. The board shall perform an inspection of any massage establishment that
16 has been disciplined in accordance with this Section within one calendar year of the
17 infraction or reinstatement of license. The board shall immediately suspend a license
18 pending a disciplinary hearing for any inspection of a massage establishment that
19 reveals any violations of this Section.

20 G. The board shall impose a fine or penalty on massage establishments that
21 continue to operate without a license. The board shall promulgate in rule the amount
22 of the fine or penalty to be incurred.

23 * * *

24 §3568. Human trafficking training

25 A. The board shall provide training opportunities for its board members,
26 staff, and contract inspectors to help identify signs of human trafficking.

27 B. The board shall coordinate with law enforcement agencies and other
28 stakeholders to help identify and address any illicit activity related to human
29 trafficking in the massage industry.

1 Section 2. R.S. 37:3562(A)(8) and (B) are repealed in their entirety.

2 Section 3. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 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 531 Original

2021 Regular Session

Pressly

Abstract: Revises the provisions of the La. Board of Massage Therapy.

Present 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, whirlpool, hot and cold packs, salt glow, body wraps, or steam cabinet baths.

Proposed law clarifies present law and states that the practice of massage therapy may include, with appropriate training, the use of lubricants such as salts, powders, liquids, creams with the exception of prescriptive or medicinal creams, heat lamps, hot and cold stones, whirlpool, hot and cold packs, salt glow, body wraps, or steam cabinet baths, pulse electromagnetic field therapy or microcurrent devices.

Present law provides that electrotherapy shall not be identified as a practice of massage therapy.

Proposed law deletes present law and adds that ultrasound therapy shall not be identified as a practice of massage therapy.

Present law provides that a license for massage therapist shall not be applied to the following:

- (1) Persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally present in the state to teach a course of instruction related to massage and bodywork therapy as a continuing education course.
- (2) Persons giving massage and bodywork to their immediate family without compensation.
- (3) Persons incidentally present in the state to provide services as part of an emergency response team working in conjunction with relief officials during a disaster, provided such persons are properly licensed in the state from which they originate.

Further provides that notwithstanding the provisions of present law, a person who is licensed or certified in this state under any other provision of present law shall not be prevented or

restricted from engaging in the profession for which he is licensed and which he may provide massage or bodywork therapy to a person.

Proposed law retains present law and adds that a person licensed or certified in this state under any other provision of present law shall not hold himself out to the public as a licensed or certified massage therapist pursuant to present law.

Present law sets forth the powers and duties of the board.

Present law provides that the board shall adopt and revise rules and regulations pursuant to the Administrative Procedure Act for the purpose of administering the provisions of present law.

Proposed law retains present law and adds that such rules and regulations shall be promulgated within 90 days following any new changes to provisions of present law.

Proposed law retains present law and adds additional powers and duties to the board. Those powers and duties include the following:

- (1) Prioritize inspections and incorporate risk factors for complaints made to the board regarding any unlicensed activity by massage therapists or massage establishments.
- (2) Review news articles regarding unauthorized activity of a massage therapist or massage establishment.
- (3) Monitor the performance of inspection contractors who inspect massage establishments.
- (4) Perform inspections to determine if a massage establishment is 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 who have been notified to cease operations in accordance with present law.
- (8) Develop guidance to follow a consistent and objective approach and properly protect the public unqualified licensees when massage therapists are discipline in accordance with present law.
- (9) Submit the names of new applicants for licensure to the La. Bureau of Criminal Identification and Information of the office of state police within the Dept. of Public Safety and Corrections to conduct state and federal criminal backgrounds. Further provides that the Dept. of Public Safety and Corrections may charge the board a reasonable processing fee for conducting and reporting a search.

Present 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.

Proposed law retains present law and adds that the board shall 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.

Present law provides that the board shall issue a license to each person who meets the qualifications and submit payment to obtain such license. Further provides that the license will be identified as a Licensed Massage Therapist Identification Card.

Proposed law retains present law and adds that the license shall be issued and delivered to the licensee and that the license shall contain an anti-copy watermark or lamination.

Present law provides that a licensee has to renew his license annually and meet the continuing education requirements provided for in the Administrative Procedure Act.

Proposed law retains present law and states that any excess continuing education credits may only be applied to the year following a licensee satisfying the renewal requirements. Further provides that proposed law shall become effective with the renewal cycle of April 1, 2022.

Present law provides the board shall assess a \$125 fee for a original massage therapist license and annual renewal license.

Proposed law changes the original massage therapist license and an annual license renewal fee from \$125 to \$150.

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

Proposed law adds the board shall perform an inspection of any massage therapist that has been disciplined in accordance with present law within one calendar year of the infraction or reinstatement of license. The board shall immediately suspend a license pending a disciplinary hearing for any inspection of a massage therapist which reveal any violations of present law.

Further provides the board shall also perform an inspection of any massage establishment that has been disciplined in accordance with present law within one calendar year of the infraction or reinstatement of license. The board shall immediately suspend a license pending a disciplinary hearing for any inspection of a massage establishment which reveal any violations of present law.

Proposed law adds to present law that the board shall impose a fine or penalty on massage establishments who continue to operate without a license. The board shall promulgate in rule the amount of the fine or penalty to be incurred.

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

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

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