
DIGEST

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HB 531 Reengrossed

2021 Regular Session

Pressly

Abstract: Revises laws providing further duties and functions of the La. Board of Massage Therapy.

Proposed law mandates the Louisiana Board of Massage Therapy to submit fingerprint cards and other identifying information of persons seeking licensure to the bureau and requires the bureau to, upon receipt of the fingerprints and other identifying information, produce all conviction information contained within its criminal history record and identification files.

Proposed law mandates that the fingerprints obtained by the Louisiana Board of Massage Therapy be forwarded to the Federal Bureau of Investigation from the bureau in order to have a nation-wide criminal history record check performed.

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, certain electromechanical 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, the use of electrical muscle stimulation, or transcutaneous electrical nerve stimulation 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 120 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) 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 a list of observations for 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 within the Dept. of Public Safety and Corrections to conduct state and federal criminal background checks. Further provides that the Louisiana Bureau of Criminal Identification may charge the board a fee in accordance with present law (R.S.15:587) 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 by United States Postal Service or other nonelectronic delivery options 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.

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

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 a review 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 review 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 or registration of an establishment for failure of a follow-up inspection.

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)(introductory paragraph) and (2), and (D), 3561(A), and 3562 (A)(1)-(3); Adds R.S. 15:587(A)(1)(K), R.S. 37:3555(A)(6) through (14), 3556(B)(3), and 3563(E) through (G) and 3568; Repeals R.S. 37:3562(A)(8) and (B))

Summary of Amendments Adopted by House

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

1. Require persons seeking licensure from the Louisiana Board of Massage Therapy to submit fingerprints and other identifying information to the Louisiana Bureau of Criminal Identification and Information and the Federal Bureau of Investigation.
2. Delete proposed law and add utilizing legally available news outlets as resources to identify unauthorized activities of massage therapists and establishments.
3. Mandate a 120-day prescriptive period for promulgation of rules by the board.
4. Revise the criminal background check procedures enforced by the Louisiana Bureau of Criminal Identification and Information.
5. Add proposed law establishing a license renewal cycle commencement date on April 1, 2022.
6. Add proposed law renewal cycle commencement date on April 1, 2022.
7. Revise proposed law requiring the board to monitor the performance of inspection contractors to instead require the board evaluate the performance of such contractors.
8. Delete "micro-current devices" from proposed law and add language regarding the use of non-prescriptive, off-the-shelf commercially available electromechanical devices as

forms of massage therapy.

9. Add language regarding electrical muscle stimulation, or transcutaneous electrical nerve stimulation, except micro-current as treatments that are not considered massage therapy.
10. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Add proposed law requiring applicants for renewal to submit to state and federal background checks.
2. Remove proposed law revising fee amounts associated with the original massage therapist license fee, annual license renewal fee, and applications fees.
3. Make technical changes.