

**HOUSE SUMMARY OF SENATE AMENDMENTS**

**HB 531**

**2021 Regular Session**

**Pressly**

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

**Synopsis of Senate Amendments**

1. Mandates that the board require that the applicant, designated responsible parties, and any owners provide written consent to the board to request and obtain state and national criminal history record information as a condition for consideration of an application for licensure.
2. Provides that the board may charge and collect from the applicant the amount incurred by the board in requesting and obtaining state and national criminal history record information.
3. Requires the board to provide each applicant with a copy of the written standards and requirements that shall be met by an applicant to obtain a license.
4. Provides that the board may request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant, designated responsible party, or owner whose fingerprints the board has obtained for the purpose of determining an applicant's eligibility.
5. Provides that the board may request other identifying information upon the submission of fingerprints as may be required.
6. Provides that the bureau shall conduct a search of its criminal history record information relative to the applicant, designated responsible party, or owner and report the results of its search within 60 days from receipt of a request.
7. Provides that if the criminal history record information reported by the bureau to the board does not provide grounds for disqualification of the applicant for licensure, the board may forward the fingerprints and other identifying information as may be required to the FBI with a request for a search of national criminal history record information.
8. Provides that any and all state or national criminal history record information obtained by the board from the bureau or FBI that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure.
9. Provides that, except with the written consent of the individual or by order of a court of competent jurisdiction, no information or records shall be released or disclosed by the board to any other person or agency.
10. Provides that no massage establishment shall be eligible for licensure absent satisfactory submission of evidence to the board that it meets requirements provided in present law and proposed law.
11. Provides that human trafficking training opportunities shall commence no later than 90 days following the effective date of proposed law and continue on an annual basis thereafter.
12. Provides that failure to participate in training shall be grounds for removal.

13. Revises proposed law providing that massage therapy may include several functions only with appropriate training to provide that the appropriate training condition applies exclusively to the use of non-prescriptive, off-the-shelf electromechanical devices.
14. Authorizes the board to deliver a license electronically under certain conditions.
15. Makes technical changes.

### **Digest of Bill as Finally Passed by Senate**

Proposed law mandates the Louisiana Board of Massage Therapy to submit fingerprint cards and other identifying information of persons seeking licensure to the Louisiana Bureau of Criminal Identification and Information (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 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. Also provides that massage therapy may include, with appropriate training, the use of 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.

Proposed law requires that the applicant, designated responsible parties, and any owners provide written consent to the board to request and obtain state and national criminal history record information as a condition for consideration of an application for licensure.

Proposed law provides that the board may charge and collect from the application the amount incurred by the board in requesting and obtaining state and national criminal history record information.

Proposed law requires the board to provide each applicant with a copy of the written standards and requirements that shall be met by an applicant to obtain a license.

Proposed law provides that the board may request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant, designated responsible party, or owner whose fingerprints the board has obtained for the purpose of determining an applicant's eligibility.

Proposed law provides that the board may request other identifying information upon the submission of fingerprints as may be required.

Proposed law provides that the bureau shall conduct a search of its criminal history record information relative to the applicant, designated responsible party, or owner and report the results of its search within sixty days from receipt of a request.

Proposed law provides that if the criminal history record information reported by the bureau to the board does not provide grounds for disqualification of the applicant for licensure, the board may forward the fingerprints and other identifying information as may be required to the FBI with a request for a search of national criminal history record information.

Proposed law provides that any and all state or national criminal history record information obtained by the board from the bureau or FBI that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure.

Proposed law provides that, except with the written consent of the individual or by order of a court of competent jurisdiction, no information or records shall be released or disclosed by the board to any other person or agency.

Proposed law provides that no massage establishment shall be eligible for licensure absent satisfactory submission of evidence to board.

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.

Proposed law provides that human trafficking training opportunities shall commence no later than ninety days following the effective date and continue on an annual basis thereafter. Provides that failure to participate in training shall be grounds for removal.

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)(intro. para.) and (2) and (D), 3561(A); Adds R.S. 15:587(A)(1)(k) and R.S. 37:3555(A)(6)-(14), 3556(B)(3), 3558(A)(4) and (E), 3563(E)-(G), and 3568; Repeals R.S. 37:3562(A)(8) and (B))