#### 2021 Regular Session

#### HOUSE BILL NO. 531

#### BY REPRESENTATIVES PRESSLY AND HILFERTY AND SENATOR JOHNS

1	AN ACT
2	To amend and reenact R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(introductory
3	paragraph) and (2), and (D), and 3561(A), to enact R.S. 15:587(A)(1)(k) and R.S.
4	37:3555(A)(6) through (14), 3556(B)(3), 3563(E) through (G), and 3568, and to
5	repeal R.S. 37:3562(A)(8) and (B), relative to massage therapists; to provide for
6	massage therapy techniques; to provide for persons who are not licensed or certified
7	as a massage therapist; to revise the powers and duties of the Louisiana Board of
8	Massage Therapy; to provide for the performance of state and federal criminal
9	background checks on prospective licensees; to provide for military personnel and
10	their spouses who relocate to this state; to provide for the issuance of a license to a
11	licensee; to provide for continuing education requirements; to provide for inspections
12	of massage establishments; to provide discipline for those massage establishments
13	that operate as a sexually oriented business; to provide for fines and penalties to be
14	imposed by the board; to provide for violations and grounds for discipline of
15	massage therapists and massage establishments; to provide for human trafficking
16	training; to provide an effective date; and to provide for related matters.
17	Be it enacted by the Legislature of Louisiana:
18	Section 1. R.S. 15:587(A)(1)(k) is hereby enacted to read as follows:
19	§587. Duty to provide information; processing fees; Louisiana Bureau of Criminal
20	Identification and Information
21	A.(1)
22	* * *

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## **ENROLLED**

1	(k) The Louisiana Board of Massage Therapy shall submit fingerprint cards
2	and other identifying information of persons seeking licensure pursuant to R.S.
3	37:3551 et seq. to the bureau. The bureau shall, upon request and after receipt of
4	fingerprint cards and other identifying information from the Louisiana Board of
5	Massage Therapy, make available to the Louisiana Board of Massage Therapy all
6	conviction information contained in the bureau's criminal history record and
7	identification files which pertain to the person seeking licensure with the Louisiana
8	Board of Massage Therapy. In addition, the fingerprints shall be forwarded by the
9	bureau to the Federal Bureau of Investigation for a national criminal history record
10	check.
11	* * *
12	Section 2. R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(introductory
13	paragraph) and (2), and (D), and 3561(A) are hereby amended and reenacted and R.S.
14	37:3555(A)(6) through (14), 3556(B)(3), 3563(E) through (G), and 3568 are hereby enacted
15	to read as follows:
16	§3552. Definitions
17	As used in this Chapter:
18	* * *
19	(10) "Practice of massage therapy" means the manipulation of soft tissue for
20	the purpose of maintaining good health and establishing and maintaining good
21	physical condition. The practice of massage therapy shall include advertising or
22	offering to engage in the practice of massage therapy and holding oneself out or
23	designating oneself to the public as a massage therapist or massage establishment.
24	The practice of massage therapy shall include effleurage (stroking), petrissage
25	(kneading), tapotement (percussion), compression, vibration, friction (active/passive
26	range of motion), stretching activities as they pertain to massage therapy, Shiatsu,
27	acupressure, reflexology, trigger point massage, and Swedish massage either by
<i>∠1</i>	
27	hand, forearm, elbow, foot, or with mechanical appliances for the purpose of body
	hand, forearm, elbow, foot, or with mechanical appliances for the purpose of body massage. Massage therapy may include the use of lubricants such as salts, powders,

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1	hot and cold stones, whirlpool, hot and cold packs, salt glow, body wraps, or steam
2	cabinet baths, and, with appropriate training, the use of non-prescriptive, off-the-
3	shelf commercially available electromechanical devices for which they are trained
4	which mimic or enhance the actions possible by the hands. It shall not include
5	electrotherapy ultrasound, laser therapy, microwave, colonic therapy, injection
6	therapy, or manipulation of the joints, the use of electrical muscle stimulation, or
7	transcutaneous electrical nerve stimulation except microcurrent. Equivalent terms
8	for massage therapy are massage, therapeutic massage, massage technology, body
9	work, or any derivation of those terms. As used in this Chapter, the terms "therapy"
10	and "therapeutic" shall not include diagnosis, the treatment of illness or disease, or
11	any service or procedure for which a license to practice medicine, chiropractic,
12	physical therapy, or podiatry is required by law.
13	* * *
14	§3553. Application of Chapter; exceptions and exemptions
15	* * *
16	C. Nothing in this Chapter shall be construed as preventing or restricting the
17	practice of any person licensed or certified in this state under any other law from
18	engaging in the profession or occupation for which he is licensed or certified.
19	However, a person licensed or certified in this state under any other law shall not
20	hold himself out to the public as a licensed massage therapist under the provisions
21	of this Chapter.
22	* * *
23	§3555. Powers and duties of the board
24	A. The board shall:
25	* * *
26	(4) Adopt and revise rules and regulations pursuant to the Administrative
27	Procedure Act for the purpose of administering the provisions of this Chapter. The
28	board shall initiate promulgation of such rules and regulations within one hundred
29	twenty days following any new changes to provisions of this Chapter.
30	* * *

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1	(6) Prioritize inspections and incorporate risk factors for complaints made
2	to the board regarding any unlicensed activity by massage therapists or massage
3	establishments.
4	(7) Utilize all legally available news outlets as resources to identify
5	unauthorized activity of a massage therapist or establishment.
6	(8) Evaluate the performance of inspection contractors who inspect massage
7	establishments.
8	(9) Include in the inspection protocol a list of observations for inspectors to
9	determine whether there is a strong possibility that an establishment is operating as
10	a sexually oriented business and forward to law enforcement, if appropriate.
11	(10) Develop a process to identify any unlicensed activity of a person who
12	is not licensed by the board.
13	(11) Develop a process to review all complaints made to the board.
14	(12) Develop a process to monitor massage establishments who have been
15	notified of violations in accordance with R.S. 37:3563.
16	(13) Develop guidance to follow a consistent and objective approach to
17	properly protect the public from massage therapists who are disciplined in
18	accordance with R.S. 37:3563.
19	(14)(a) Submit the names of new applicants for licensure to the Louisiana
20	Bureau of Criminal Identification and Information, located within the Department
21	of Public Safety and Corrections, for criminal history background checks. Upon the
22	board's submission of an applicant's fingerprints and such other identifying
23	information as may be required, the Louisiana Bureau of Criminal Identification and
24	Information shall survey its criminal history record and identification files and shall
25	make available to the board all conviction information contained in the Louisiana
26	Bureau of Criminal Identification and Information's criminal history record and
27	identification files which pertain to the applicant for licensure. In addition, the
28	fingerprints shall be forwarded by the Louisiana Bureau of Criminal Identification
29	and Information to the Federal Bureau of Investigation for a national criminal history
30	record check.

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1	(b) The costs of providing the information required pursuant to this Section
2	shall be charged by the Louisiana Bureau of Criminal Identification, as specified in
3	R.S. 15:587(B), to the board for furnishing the information contained in the
4	Louisiana Bureau of Criminal Identification and Information's criminal history
5	record and identification files, including any additional costs of providing the
6	national criminal history records checks, which pertains to the applicant for
7	licensure.
8	* * *
9	§3556. Licensure; qualifications
10	A. No person shall engage in the practice of massage therapy without a
11	current license issued pursuant to this Chapter unless such person is exempt under
12	the provisions of this Chapter. To receive a massage therapist license in the state of
13	Louisiana, an applicant shall pay the application fee pursuant to R.S. 37:3562 and
14	shall submit evidence satisfactory to the board of meeting the following
15	requirements:
16	* * *
17	(6) Has submitted to and cleared a background check as set forth in R.S.
18	<u>37:3555(A)(14)</u> .
19	B. The requirements set forth in R.S. 37:3556(A)(1) and (2) shall not apply
20	to either any of the following:
21	* * *
22	(2) Persons who hold a valid, current, and unexpired license or registration
23	to engage in the practice of massage therapy in another state, territory,
24	commonwealth, or the District of Columbia that has and maintains standards and
25	requirements of practice and licensure or registration that substantially conform to
26	the requirements in force in this state, as determined by the board. The board shall
27	verify the validity of the documents submitted with that state's licensing or
28	registration agency and obtain any transcript information directly from the school
29	identified by the applicant.

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## **ENROLLED**

1	(3) Persons who are active or retired military personnel and relocate to this
2	state or his spouse who possesses a license from another state with substantially
3	equivalent licensing requirements pursuant to the provisions of this Chapter.
4	* * *
5	D. The board shall issue and deliver, by United States Postal Service or any
6	other delivery option, a license to each person who meets the qualifications provided
7	for in this Section upon payment of the professional license fee provided pursuant
8	to R.S. 37:3562. The license shall include a recent photo of the licensee. The board
9	may deliver a license by electronic transmission if the license contains the licensee's
10	current photo and an electronic watermark or unique QR barcode. The license, in the
11	form of a Licensed Massage Therapist Identification Card (LMT-ID Card), which
12	contains an available anti-copy watermark or lamination, shall grants grant all
13	professional rights, honors, and privileges to the licensed massage therapist.
14	* * *
15	§3561. License renewal requirements
16	A.(1) Each license shall be renewed annually, on or before its expiration date
17	by submitting a renewal application form, payment of the renewal fee specified in
18	R.S. 37:3562, and providing evidence that the licensee has completed continuing
19	education requirements, as established by rule of the board.
20	(2)(a) Beginning with the renewal cycle of April 1, 2022, any excess
21	continuing education credits may be applied to the following year only after a
22	licensee has satisfied the license renewal requirements.
23	(b) In the renewal cycle beginning April 1, 2022, and in this cycle only, each
24	renewing applicant shall submit to a state and federal background check as described
25	in R.S. 37:3555(A)(14). In order to renew, an applicant must not have pled guilty
26	to or been convicted of any sex-related crime, crime of violence, or crime related to
27	the practice of massage therapy.
28	* * *

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1	§3563. Grounds for discipline
2	* * *
3	E. The board shall perform a review of any massage therapist that has been
4	disciplined in accordance with this Section within one calendar year of the infraction
5	or reinstatement of license. The board shall immediately suspend a license pending
6	a disciplinary hearing for any review of a massage therapist that reveals any
7	violations of this Section.
8	F. The board shall perform an inspection of any massage establishment that
9	has been disciplined in accordance with this Section within one calendar year of the
10	infraction or reinstatement of license. The board shall immediately suspend a license
11	or registration of such an establishment upon the establishment's failure of a
12	follow-up inspection indicating continued or new violations of this Section, pending
13	a disciplinary hearing.
14	G. The board shall impose a fine or penalty on massage establishments that
15	continue to operate without a license. The board shall promulgate in rule the amount
16	of the fine or penalty to be incurred.
17	* * *
18	§3568. Human trafficking training
19	A. The board shall provide training opportunities for its board members,
20	staff, and contract inspectors to help identify signs of human trafficking. The
21	training opportunities required pursuant to this Subsection shall commence no later
22	than ninety days following the effective date of this Part and continue on at least an
23	annual basis thereafter. Failure to participate in the training shall be grounds for
24	removal of any board member, disciplinary action up to termination of employment
25	for any staff person, or the termination of the contract of an inspector.
26	B. The board shall coordinate with law enforcement agencies and other
27	stakeholders to help identify and address any illicit activity related to human
28	trafficking in the massage industry.

#### HB NO. 531

# Section 3. R.S. 37:3562(A)(8) and (B) are repealed in their entirety. Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

## SPEAKER OF THE HOUSE OF REPRESENTATIVES

## PRESIDENT OF THE SENATE

### GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_