

**ACT No. 324**

2021 Regular Session

HOUSE BILL NO. 531

BY REPRESENTATIVES PRESSLY AND HILFERTY AND SENATOR JOHNS

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AN ACT

To amend and reenact R.S. 37:3552(10), 3553(C), 3555(A)(4), 3556(A)(6), (B)(introductory paragraph) and (2), and (D), and 3561(A), to enact R.S. 15:587(A)(1)(k) and R.S. 37:3555(A)(6) through (14), 3556(B)(3), 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 background checks on 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 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. 15:587(A)(1)(k) is hereby enacted to read as follows:

§587. Duty to provide information; processing fees; Louisiana Bureau of Criminal Identification and Information

A.(1)

\* \* \*

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.

\* \* \*

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:

§3552. Definitions

As used in this Chapter:

\* \* \*

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  
 28                   hand, forearm, elbow, foot, or with mechanical appliances for the purpose of body  
 29                   massage. Massage therapy may include the use of lubricants such as salts, powders,  
 30                   liquids, creams with the exception of prescriptive or medicinal creams, heat lamps,

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 \* \* \*

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.

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               37:3555(A)(14).

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.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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   \*       \*       \*

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.

1 Section 3. R.S. 37:3562(A)(8) and (B) are repealed in their entirety.

2 Section 4. 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.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

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