

2016 Regular Session

SENATE BILL NO. 341

BY SENATOR MARTINY

GOVERNMENTAL REGULATIONS. Provides relative to the Louisiana Massage Therapists and Massage Establishments Act. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 37:3552(10), 3553(C), 3555(A)(2) and (B), 3556(A)(2) and (3)

3 and (B), 3556.1 and 3561(A) and to enact R.S. 37:3555(A)(6), 3556(A)(7) and (F),

4 3564(C), and 3567(C), relative to the Louisiana Massage Therapists and Massage

5 Establishments Act; to provide for definitions; to provide for duties of the Louisiana

6 Massage Therapy Board; to provide for licensing requirements; to provide for

7 reciprocity and licensure by transfer or endorsement; to provide relative to

8 advertisements; to provide for local regulations; to provide for certain terms,

9 conditions, and procedures; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:3552(10), 3553(C), 3555(A)(2) and (B), 3556(A)(2) and (3) and

12 (B), 3556.1, and 3561(A) are hereby amended and reenacted and R.S. 37:3555(A)(6),

13 3556(A)(7) and (F), 3564(C), and 3567(C) are hereby enacted to read as follows:

14 §3552. Definitions

15 As used in this Chapter:

16 * * *

17 (10) "Practice of massage therapy" means the manipulation of soft tissue for

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

20 * * *

21 §3553. Application of Chapter; exceptions and exemptions

22 * * *

23 C. Nothing in this Chapter shall be construed as preventing or restricting the
 24 practice of any person licensed or certified in this state under any other law from
 25 engaging in the profession or occupation for which he is licensed or certified. **Such**
 26 **licensed or certified person shall not offer massage therapy services to the**
 27 **public with or without supervision or hold out any employee as being a massage**
 28 **therapist, unless such employee is licensed by the board.**

29 * * *

1 §3555. Powers and duties of the board

2 A. The board shall:

3 * * *

4 (2)~~(a)~~ Perform inspections and investigate persons who may be engaging in
5 practices which violate provisions of this Chapter and impose fines and penalties.

6 **(b) Perform an initial inspection within forty-five days of the opening of**
7 **a newly licensed massage establishment.**

8 * * *

9 **(6) Establish continuing education requirements for license renewal.**

10 **Such requirements shall include, at a minimum, a procedure for continuing**
11 **education classes to be approved by the board.**

12 B. The board may:

13 (1) ~~Accept~~ **accept** or deny entrance of any applicant applying for licensure.

14 (2) ~~Establish continuing education requirements for license renewal.~~

15 §3556. Licensure; qualifications

16 A. No person shall engage in the practice of massage therapy without a
17 current license issued pursuant to this Chapter unless such person is exempt under
18 the provisions of this Chapter. To receive a massage therapist license in the state of
19 Louisiana, an applicant shall pay the application fee pursuant to R.S. 37:3562 and
20 shall submit evidence satisfactory to the board of meeting the following
21 requirements:

22 * * *

23 (2) Has passed a national examination approved by the board under R.S.
24 37:3557 within two years from the date the application is filed. **Proof of passage of**
25 **the examination shall be required and such proof shall be submitted directly to**
26 **the board by the testing entity or organization.**

27 (3) Is a citizen or legal resident of the United States ~~and has the ability to~~
28 ~~read, write, speak, and understand English fluently.~~ **A statement by the person**
29 **under oath that he is a citizen or legal resident of the United States shall be**

1 **sufficient proof of compliance with this requirement.**

2 * * *

3 **(7) Has the ability to read, write, speak, and understand English fluently**
4 **and demonstrates such ability by passing an English proficiency test**
5 **administered by the board.**

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

8 (1) ~~Persons~~ **persons** who have continuously held a license to engage in the
9 practice of massage therapy issued by the board since March 1, 1998.

10 ~~(2) Persons who hold a valid, current, and unexpired license or registration~~
11 ~~to engage in the practice of massage therapy in another state, territory,~~
12 ~~commonwealth, or the District of Columbia that has and maintains standards and~~
13 ~~requirements of practice and licensure or registration that substantially conform to~~
14 ~~the requirements in force in this state, as determined by the board.~~

15 * * *

16 **F. The board is authorized to grant a license by transfer or endorsement**
17 **to any person who complies with all of the provisions of this Chapter.**

18 §3556.1. Course of study; hours

19 ~~A.~~ Pursuant to the licensure requirements provided in R.S. 37:3556, a course
20 of study may utilize a credit hours equivalent as defined by the United States
21 Department of Education in lieu of clock hours to measure student achievement. A
22 course of study using credit hours shall provide course work consistent with the rules
23 promulgated by the board including at least five hundred hours of in-class supervised
24 instruction.

25 ~~B. The provisions of this Section shall terminate on January 1, 2013.~~

26 * * *

27 §3561. License renewal requirements

28 A. ~~(1)~~ Each license shall be renewed annually, on or before its expiration date
29 by submitting a renewal application form, payment of the renewal fee specified in

1 R.S. 37:3562, and providing evidence that the licensee has completed continuing
2 education requirements, as established by rule of the board.

3 **(2) In addition to the requirements of Subsection A of this Section, on**
4 **and after January 1, 2017, every licensee who received a transfer or**
5 **endorsement license or a license through reciprocity shall meet all of the**
6 **following requirements:**

7 **(a)(i) Has satisfactorily completed a minimum five hundred hour in-class**
8 **supervised course of studies pursuant to rules promulgated by the board in**
9 **accordance with the Administrative Procedure Act.**

10 **(ii) A course of study may utilize a credit hours equivalent as defined by**
11 **the United States Department of Education in lieu of clock hours to measure**
12 **student achievement. A course of study using credit hours shall provide course**
13 **work consistent with the rules promulgated by the board including at least five**
14 **hundred hours of in-class supervised instruction.**

15 **(b) Has passed a national examination approved by the board under R.S.**
16 **37:3557. Proof of passage of the examination shall be required and such proof**
17 **shall be submitted directly to the board by the testing entity or organization.**

18 **(c) Is a citizen or legal resident of the United States. A statement by the**
19 **person under oath that he is a citizen or legal resident of the United States shall**
20 **be sufficient proof of compliance with this requirement.**

21 **(d) Has not, within the five years preceding the date of the application,**
22 **been convicted of a nonviolent felony.**

23 **(e) Has never been convicted of or pled nolo contendere to a violent**
24 **felony or a criminal offense involving sexual misconduct.**

25 **(f) Has submitted to and cleared a background check.**

26 **(g) Has the ability to read, write, speak, and understand English fluently**
27 **and demonstrates such ability by passing an English proficiency test**
28 **administered by the board.**

29 * * *

1 §3564. Regulation of advertising

2 * * *

3 **C. In any advertisement for massage therapy that uses pictures or videos,**
4 **each person photographed or videoed shall be professionally attired and shall**
5 **not pose in a seductive manner.**

6 * * *

7 §3567. Effect on local regulations

8 * * *

9 **C. Nothing in this Section shall prevent local or state law enforcement**
10 **representatives from assisting in enforcement of this Chapter. Such**
11 **representatives are prohibited from imposing any additional rules or**
12 **ordinances regarding zoning, educational requirements, or fees for licensure**
13 **upon licensees.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 341 Original

2016 Regular Session

Martiny

Present law provides for the regulation of any person or massage establishment engaging in the practice of massage therapy in the state of La.

Present law defines the "practice of massage therapy" as manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition. The practice of massage therapy shall include advertising or offering to engage in the practice of massage therapy and holding oneself out or designating oneself to the public as a massage therapist or massage establishment. The practice of massage therapy shall include effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction (active/passive range of motion), stretching activities as they pertain to massage therapy, Shiatsu, acupressure, reflexology, and Swedish massage either by 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, 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. It shall not include electrotherapy, laser therapy, microwave, colonic therapy, injection therapy, or manipulation of the joints. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, body work, or any derivation of those terms. As used in this Chapter, the terms "therapy" and "therapeutic" shall not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Proposed law expands the definition of massage therapy to include trigger point therapy.

Present law does not prevent or restrict the practice of any person licensed or certified in this

state under any other law from engaging in the profession or occupation for which he is licensed or certified.

Proposed law retains present law and adds that the person licensed or certified shall not offer massage therapy services to the public with or without supervision or hold out any employee as being a massage therapist, unless such employee is licensed by the board.

Present law requires the board to perform inspections and investigate persons who may be engaging in practices which violate the law.

Proposed law retains present law and adds that the board shall perform an initial inspection within 45 days of the opening of a newly licensed massage establishment.

Present law gives the board the authority to adopt rules establishing continuing education requirements for license renewal.

Proposed law requires the board to adopt rules establishing continuing education requirements for license renewal and provides that such requirements shall include, at a minimum, a procedure for continuing education classes to be approved by the board.

Present law provides for the following licensing requirements:

- (1) Has satisfactorily completed a minimum 500 hour in-class supervised course of studies pursuant to rules promulgated by the board in accordance with the Administrative Procedure Act.
- (2) Has passed a national examination approved by the board within two years from the date the application is filed.
- (3) Is a citizen or legal resident of the United States and has the ability to read, write, speak, and understand English fluently.
- (4) Has not, within the five years preceding the date of the application, been convicted of a nonviolent felony.
- (5) Has never been convicted of or pled nolo contendere to a violent felony or a criminal offense involving sexual misconduct.
- (6) Has submitted to and cleared a background check.

Proposed law requires that proof of passage of the examination shall be required and such proof shall be submitted directly to the board by the testing entity or organization.

Proposed law requires that each applicant submit with his application a statement under oath that he is a citizen or legal resident of the United States and such statement shall be sufficient proof that he satisfied the requirement that he be a citizen or legal resident of the United States.

Proposed law requires the applicant demonstrate his ability to read, write, speak, and understand English fluently by passing an English proficiency test administered by the board.

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 that has and maintains standards and requirements of practice and licensure or registration that substantially conform to the requirements in force in this state, as determined by the board.

Proposed law removes board's ability to grant a licence by reciprocity.

Proposed law authorizes the board to grant a license by transfer or endorsement to any person who complies with certain laws.

Present law provides that pursuant to the licensure requirements of present law, a course of study may utilize a credit hours equivalent as defined by the United States Department of Education in lieu of clock hours to measure student achievement. A course of study using credit hours shall provide course work consistent with the rules promulgated by the board including at least 500 hours of in-class supervised instruction. Present law sunset on January 1, 2013.

Proposed law removes the sunset provision.

Present law provides for license renewal requirements.

Proposed law retains present law and adds that in addition to the license renewal requirements of present law beginning on and after January 1, 2017, every licensee who received a transfer or endorsement license or a license through reciprocity shall meet all the following requirements:

- (1) Has satisfactorily completed a minimum 500 hour in-class supervised course of studies pursuant to rules promulgated by the board in accordance with the Administrative Procedure Act.
- (2) Has passed a national examination approved by the board as provided by law. Proof of passage of the examination shall be required and such proof shall be submitted directly to the board by the testing entity or organization.
- (3) Is a citizen or legal resident of the United States. A statement by the person under oath that he is a citizen or legal resident of the United States shall be sufficient proof of compliance with this requirement.
- (4) Has not, within the five years preceding the date of the application, been convicted of a nonviolent felony.
- (5) Has never been convicted of or pled nolo contendere to a violent felony or a criminal offense involving sexual misconduct.
- (6) Has submitted to and cleared a background check.
- (7) Has the ability to read, write, speak, and understand English fluently and demonstrates such ability by passing an English proficiency test administered by the board.

Proposed law provides that in any advertisement for massage therapy that uses pictures or videos, each person photographed or videoed shall be professionally attired and shall not pose in a seductive manner.

Proposed law provides that nothing in present law shall prevent local or state law enforcement representatives from assisting in enforcement of the present law. Such representatives are prohibited from imposing any additional rules or ordinances regarding zoning, educational requirements, or fees for licensure upon licensees.

Effective August 1, 2016.

(Amends R.S. 37:3552(10), 3553(C), 3555(A)(2) and (B), 3556(A)(2) and (3) and (B), 3556.1 and 3561(A); adds R.S. 37:3555(A)(6), 3556(A)(7) and (F), 3564(C), and 3567(C))