

2016 Regular Session

HOUSE BILL NO. 792

BY REPRESENTATIVE ADAMS

MASSAGE THERAPISTS: Provides relative to the regulation of massage therapists

1 AN ACT

2 To amend and reenact R.S. 37:3552(10), 3555(B)(2), 3556(A)(introductory paragraph),  
3 (1)(a), and (2) through (6) and (B), and 3566(A), to enact R.S. 37:3555(C),  
4 3556(A)(7), 3558(E), 3560, 3561(F), 3564(C), and 3567(C), and to repeal R.S.  
5 37:3556(B)(2) and 3556.1, relative to the regulation of massage therapists and  
6 establishments; to amend definitions; to prohibit certain acts of unlicensed support  
7 personnel; to specify a time frame for initial inspections of establishments; to  
8 provide with respect to continuing education; to provide certain revisions with  
9 respect to license qualifications; to provide relative to out-of-state licensees; to  
10 provide for the regulation of advertisement; to require the pursuit of an injunction;  
11 to authorize and prohibit certain enforcement by state and local officials; to repeal  
12 exemptions with respect to persons licensed out-of-state; to repeal an expired  
13 provision of law; to require rule promulgation; to provide for an effective date; to  
14 make technical corrections; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 37:3552(10), 3555(B)(2), 3556(A)(introductory paragraph), (1)(a),  
17 and (2) through (6) and (B), and 3566(A) are hereby amended and reenacted and R.S.  
18 37:3555(C), 3556(A)(7), 3558(E), 3560, 3561(F), 3564(C), and 3567(C) are hereby enacted  
19 to read as follows:

1 §3552. Definitions

2 As used in this Chapter:

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

23 \* \* \*

24 §3555. Powers and duties of the board; continuing education

25 \* \* \*

26 B. The board may:

27 \* \* \*

28 (2) Establish continuing education requirements for license renewal in  
29 accordance with Subsection C of this Section.



1 through the contact information associated with the identification or through use of  
2 an electronic database.

3 (4)(a) The ability to read, write, speak, and understand English fluently.

4 (b) All persons with out-of-state license credentials applying for a license in  
5 this state shall pass an English proficiency test such as TOEFL or a verbal  
6 jurisprudence test to be administered in person by the board or an assigned  
7 representative thereof.

8 ~~(4)(5) Has not, within~~ Within the five years preceding the date of the  
9 application, ~~the applicant has not~~ been convicted of a nonviolent felony.

10 ~~(5)(6) Has~~ The applicant has never been convicted of or pled nolo  
11 contendere to a violent felony or a criminal offense involving sexual misconduct.

12 ~~(6)(7) Has~~ The applicant has submitted to and cleared a background check.

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

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

17 §3558. Massage establishments; license; initial inspection

18 \* \* \*

19 E. All newly licensed massage establishments shall receive an initial  
20 inspection by the board no later than sixty days from the date of opening.

21 \* \* \*

22 §3560. Unlicensed persons; prohibited acts

23 A. No support personnel unlicensed pursuant to the provisions of this  
24 Chapter shall purport to be a licensed massage therapist or offer stand alone massage  
25 services to the public, with or without supervision of a person who holds a  
26 professional or occupational license pursuant to the provisions of Title 37 of the  
27 Louisiana Revised Statutes of 1950.



1        Chapter. However, such representatives and officials are prohibited from imposing  
2        any additional rules or ordinances regarding zoning, educational requirements, or  
3        fees for licensure.

4        Section 2. R.S. 37:3556(B)(2) and 3556.1 are hereby repealed in their entirety.

5        Section 3. The Louisiana Board of Massage Therapy shall promulgate all rules  
6        necessary for the implementation of the provisions of this Act before January 1, 2017.

7        Section 4. The provisions of R.S. 37:3561(F) as enacted by this Act shall apply to  
8        the 2017 license renewal cycle and all subsequent license renewals.

9        Section 5. This Act shall become effective upon signature by the governor or, if not  
10       signed by the governor, upon expiration of the time for bills to become law without signature  
11       by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
12       vetoed by the governor and subsequently approved by the legislature, this Act shall become  
13       effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 792 Engrossed

2016 Regular Session

Adams

**Abstract:** Provides for the licensure and regulation of massage therapists and massage therapy establishments.

Present law defines the practice of massage therapy as the manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition and provides for certain types of massage therapy such as acupuncture and reflexology.

Proposed law retains present law and adds trigger point therapy as a type of massage therapy.

Proposed law requires the La. Board of Massage Therapy (board) to provide an initial inspection of all newly licensed massage establishments within 60 days of the date of the establishment's opening.

Proposed law prohibits unlicensed support personnel from purporting to be a licensed massage therapist or offering stand alone massage services to the public unless the massage services are provided in massage clinics during the course of massage therapy education and training approved by the board.

Present law provides for continuing education for licensed massage therapists. Proposed law retains present law and requires continuing education classes to be approved by at least one

appointed board member. Further requires at least half of the required continuing education hours to consist of board-approved, in-class supervised training.

Present law provides for the licensing requirements for applicants seeking licensure by the board. Proposed law retains present law.

Present law requires an applicant to pass a board-approved national examination. Proposed law retains present law and further requires the board to receive applicants' test scores directly from the issuing agency of the exam.

Present law requires an applicant to be a U.S. citizen or legal resident. Proposed law retains present law and further requires proof of citizenship or legal residency by the applicant providing an original government-issued form of identification. Further requires the board to verify the validity of the identification.

Present law requires an applicant to have fluency in the English language. Proposed law retains present law and further requires applicants to pass an English proficiency test if the person is transferring an out-of-state license.

Beginning with the 2017 renewal cycle for licenses, proposed law requires persons who received a license by transferring an out-of-state license since Jan. 1, 2013, to show proof of all of the licensing requirements.

Present law regulates the advertising of massage therapy. Proposed law retains present law and requires advertisements containing pictorial representations of massage therapy, including video representations, to have depictions of massage therapists who are professionally attired and non-seductively posed. Further requires persons representing clients to be appropriately draped and posed.

Present law authorizes the board to seek an injunction against persons who violate present law.

Proposed law changes the authorization to a requirement that the board seek an injunction.

Proposed law authorizes state, municipal, or city enforcement representatives or officials to enforce provisions of present law and proposed law made applicable to massage therapists and establishments. Prohibits such representatives or officials from imposing any additional rules or ordinances regarding zoning, educational requirements, or fees for licensure.

Proposed law repeals a present law provision that exempted an out-of-state applicant from taking a certain board-approved 500-hour course and national examination.

Proposed law repeals an expired provision regarding credit hours of courses of study.

Proposed law requires the board to promulgate all rules necessary for the implementation of proposed law before Jan. 1, 2017.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 37:3552(10), 3555(B)(2), 3556(A)(intro. para.), (1)(a), and (2) through (6) and (B), and 3566(A); Adds R.S. 37:3555(C), 3556(A)(7), 3558(E), 3560, 3561(F), 3564(C), and 3567(C); Repeals R.S. 37:3556(B)(2) and 3556.1)

Summary of Amendments Adopted by House

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

1. Make technical changes and corrections.
2. Require at least half of the required continuing education hours to consist of board-approved, in-class supervised training.
3. Clarify that proposed law applies to applicants seeking licensure via the transfer of an existing out-of-state license.
4. Delete the requirement that the national exam be passed within two years from date of application.
5. Require an applicant to present an original form of identification instead of a copy.
6. Provide examples of an approved English language proficiency test.
7. Increase the time limit for the initial inspection of an establishment from 45 days to 60 days.
8. Authorize the practice of massage therapy by nonlicensed persons if the massage services are provided in massage clinics during the course of massage therapy education and training approved by the board.
9. Require the board to seek an injunction against violators.
10. Limit the applicable time period which requires a person licensed during that time to show proof of qualification prior to renewal.
11. Require the board to timely promulgate administrative rules.
12. Make proposed law effective upon signature of the governor.