

SENATE FILE NO. SF0091

Massage therapy-practice act.

Sponsored by: Senator(s) Schuler

A BILL

for

1 AN ACT relating to professions and occupations; creating
2 the Massage Therapy Practice Act; establishing the board of
3 massage therapy; creating an account; authorizing the board
4 to expend funds in the account; regulating the practice of
5 massage therapy; providing definitions; providing
6 rulemaking authority; providing for criminal history
7 background checks; providing penalties; making conforming
8 amendments; providing an appropriation; and providing for
9 effective dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 33-50-101 through 33-50-114 are
14 created to read:

15

16

CHAPTER 50

1 MESSAGE THERAPY PRACTICE ACT

2

3 **33-50-101. Short title.**

4

5 This chapter shall be known and may be cited as the
6 "Massage Therapy Practice Act."

7

8 **33-50-102. Definitions.**

9

10 (a) As used in this chapter:

11

12 (i) "Board" means the board of massage therapy;

13

14 (ii) "Massage" or "bodywork" means manual soft
15 tissue manipulation and includes holding, causing movement
16 or applying pressure to the body using the hands or body;

17

18 (iii) "Massage therapist" means a person who
19 practices massage therapy as defined in W.S. 33-50-103.
20 Massage therapists may use the titles specified in W.S.
21 33-50-107(a);

22

1 (iv) "Massage therapy" means the practical
2 application of bodywork techniques as further defined in
3 W.S. 33-50-103.

4

5 **33-50-103. Massage therapy defined.**

6

7 (a) Massage therapy is a health care profession that
8 uses the practical application of massage techniques,
9 specifically the systematic treatment of soft tissues and
10 structures of the body through touch, for therapeutic
11 purposes, among which are comfort, relief of pain,
12 facilitation of natural body processes and the enhancement
13 or restoration of health and well being.

14

15 (b) Massage therapy includes effleurage, petrissage,
16 tapotement, compression, friction, vibration, nerve
17 strokes, specific and nonspecific stretching and passive
18 articulation.

19

20 (c) Massage therapy may include the use of oils,
21 lotions, mineral salts, hot or cold compresses,
22 hydrotherapy or the use of mechanical, nonmechanical,

1 electrical or electronic devices to assist or enhance the
2 manual application of therapeutic massage techniques.

3

4 (d) "Massage therapy," "therapeutic massage" and
5 "therapeutic bodywork" does not include the diagnosis of
6 any specific illness or disease but may include the
7 treatment of a specific illness or disease in conjunction
8 with a service or procedure prescribed by a licensed
9 practitioner of medicine or chiropractic.

10

11 **33-50-104. Board of massage therapy established;**
12 **disposition of money collected; compensation.**

13

14 (a) There is established a board of massage therapy
15 within the department of health. The board shall consist of
16 five (5) members who shall be residents of Wyoming for the
17 duration of their appointment. Three (3) board members
18 shall be licensed massage therapists who have been engaged
19 in providing massage therapy services for at least five (5)
20 years immediately preceding their appointments. Two (2)
21 members shall be members of the public.

22

1 (b) Not later than July 1, 2022 the governor shall
2 appoint the members of the board. Of the initial members
3 appointed to the board, two (2) board members shall be
4 appointed for a term of one (1) year, two (2) board members
5 for a term of two (2) years and one (1) board member for a
6 term of three (3) years. Appointments made thereafter shall
7 be for three (3) year terms. The initial three (3)
8 professional members appointed by the governor shall not be
9 required to be licensed in this state before their
10 appointment but shall have actively practiced massage
11 therapy in Wyoming for an average of at least ten (10)
12 hours per week for not less than three (3) years prior to
13 appointment and shall otherwise be qualified to provide
14 massage therapy under this chapter. No person shall serve
15 more than two (2) consecutive terms. Terms shall begin on
16 March 1 and end on the last day of February or until
17 successors are appointed, except for the first appointed
18 members who shall serve through the last day of February in
19 the year that the term ends under this section. Vacancies
20 in the membership of the board shall be filled for the
21 unexpired term by the governor. The governor may remove any
22 board member as provided by W.S. 9-1-202. Any member may be

1 recommended for removal after failing to attend, after
2 proper notice, three (3) consecutive meetings of the board.

3

4 (c) The board shall annually elect a chairman and
5 other officers as it deems necessary. The board shall meet
6 as often as necessary to conduct business, but not less
7 than two (2) times each year. Other meetings may be
8 convened at the call of the chairman or the written request
9 of any three (3) board members. A majority of the members
10 of the board shall constitute a quorum for all purposes.
11 All meetings of the board shall be governed in accordance
12 with W.S. 16-4-403.

13

14 (d) All money collected under this chapter shall be
15 received and deposited to a separate account and payments
16 made according to regulations established by the department
17 of health. The members of the board shall receive per diem
18 and mileage allowance as provided in W.S. 33-1-302(a)(vii),
19 for each official board meeting. The total expense for
20 every purpose incurred by the board shall not exceed the
21 total of revenue collected.

22

1 **33-50-105. Board of massage therapy; powers and**
2 **duties.**

3

4 (a) The board shall administer this chapter, may
5 investigate allegations of practices violating this chapter
6 and may deny, suspend or revoke a license or place a
7 licensee on probation in accordance with W.S. 33-50-112 and
8 the Wyoming Administrative Procedure Act.

9

10 (b) The board shall establish rules according to the
11 Wyoming Administrative Procedure Act to carry out the
12 purposes of this chapter, including establishing rules for
13 professional conduct, for professional licensure and to
14 establish ethical standards of practice for persons
15 licensed to practice massage therapy in Wyoming.

16

17 (c) The board shall request criminal history
18 background information as authorized under W.S.
19 7-19-106(a)(xxxvi) for all initial applicants and all
20 renewal applicants every two (2) years as provided by rule
21 of the board.

22

1 (d) The board shall prescribe fees for administering
2 this chapter in accordance with W.S. 33-1-201, except that
3 fees for initial licensure and license renewals shall be
4 governed by W.S. 33-50-109(a) and 33-50-110(b).

5

6 **33-50-106. License required; display of license;
7 assignment or transfer of license prohibited.**

8

9 (a) No person shall practice massage therapy or
10 purport to be a massage therapist without a license issued
11 under this chapter, except as provided in W.S. 33-50-108. A
12 person purports to be a massage therapist when the person
13 adopts or uses any title or description including "massage
14 therapist," "body therapist," "body worker," "massage
15 technician," "massage practitioner," "masseur" or any
16 derivation of those terms that implies the practice of
17 massage therapy.

18

19 (b) A massage therapy license issued under this
20 chapter shall at all times be posted in a conspicuous place
21 in the holder's principal place of business.

22

23 **33-50-107. Titles recognized; advertising.**

1

2 (a) In accordance with board rules, a person licensed
3 under this chapter may use titles or abbreviations
4 including "massage therapist," "licensed massage
5 therapist," "LMT," "massage practitioner" or "licensed
6 massage practitioner."

7

8 (b) It shall be unlawful for any person or business
9 or any employees, agents or representatives to practice
10 massage therapy or to use in connection with a business
11 name or activity the terms "massage therapy," "massage
12 therapist," "licensed massage therapist," "massage
13 practitioner," "licensed massage practitioner," "LMT" or
14 any other word, letter, abbreviation or insignia indicating
15 or implying directly or indirectly that massage therapy is
16 provided or supplied unless the massage therapy is
17 administered by a person licensed under this chapter.

18

19 (c) It shall be unlawful for any person to advertise
20 massage therapy services unless the services are
21 administered by a person licensed under this chapter.

22

23 **33-50-108. Persons and practices not affected.**

1

2 (a) Nothing in this chapter shall be construed as
3 preventing or restricting the practice, services or
4 activities of:

5

6 (i) Qualified members of other professions who
7 are licensed or regulated under the laws of this state who
8 render services within the scope of their license, provided
9 they do not represent themselves as massage therapists;

10

11 (ii) A student performing massage therapy while
12 enrolled in a board approved course of instruction and
13 while completing a clinical requirement or fieldwork for
14 academic credit and performed under the supervision of a
15 person licensed under this chapter, provided the student is
16 not represented or held out as a licensed massage therapist
17 and does not receive compensation for services performed,
18 other than possible gratuities;

19

20 (iii) The practice of massage therapy by persons
21 licensed, registered or certified in another state or
22 territory of the United States when temporarily teaching a

1 course related to massage therapy or consulting with a
2 person licensed under this chapter;

3

4 (iv) Any person providing massage therapy to
5 members of the person's household or immediate or extended
6 family without compensation;

7

8 (v) Native American healers using traditional or
9 Native American healing practices, except that healers who
10 use these practices and apply for a license under this
11 chapter shall comply with all licensure requirements under
12 this chapter;

13

14 (vi) The practice of bodywork methods that
15 involve energy techniques without intentional soft tissue
16 manipulations. The board shall establish by rule the
17 qualifications and conditions for exempted bodywork
18 methods;

19

20 (vii) The practice of bodywork methods that
21 limit manipulation of soft tissues to feet, hands and ears
22 and where the client remains clothed.

23

1 **33-50-109. Requirements for licensure.**

2

3 (a) The board shall issue a license to practice
4 massage therapy to any person who files a completed
5 application, accompanied by a license fee of seventy-five
6 dollars (\$75.00), and who submits satisfactory evidence
7 that:

8

9 (i) The applicant has reached the age of
10 majority and holds a high school diploma or evidence of an
11 equivalent achievement;

12

13 (ii) The applicant possesses a valid passport,
14 driver's license, immigration document, travel document or
15 any other government issued identification document;

16

17 (iii) The applicant successfully completed a
18 board recognized or accepted massage therapy educational
19 program of not less than five hundred (500) hours of course
20 and clinical work;

21

22 (iv) The applicant passed the massage and
23 bodywork licensing examination regulated by the federation

1 of state massage therapy boards, the board certification
2 examination administered by the national certification
3 board for therapeutic massage and bodywork or other
4 equivalent examination acceptable to the board;

5

6 (v) The applicant has not had their license to
7 practice or instruct massage therapy revoked, suspended or
8 denied in another state or jurisdiction for any reason
9 other than the nonpayment of licensing fees within the
10 immediately preceding three (3) years;

11

12 (vi) The applicant is of good moral character.
13 In determining good moral character, the board shall only
14 consider criminal convictions within the seven (7) years
15 immediately preceding application for licensure that
16 directly relate to the practice of massage therapy or the
17 ability to practice massage therapy.

18

19 (b) Notwithstanding the requirements imposed by
20 paragraph (a)(iii) and (a)(iv) of this section, the board
21 shall issue a license to practice massage therapy to any
22 person who files a completed application, accompanied by
23 the required fees, and who submits satisfactory evidence

1 that the applicant otherwise meets the requirements under
2 subsection (a) of this section and has actively practiced
3 massage therapy in Wyoming for an average of at least ten
4 (10) hours per week for not less than three (3) years
5 immediately preceding the date of application.

6

7 **33-50-110. License renewal; continuing education.**

8

9 (a) Any license issued under this chapter shall be
10 valid for two (2) years and shall expire on a date
11 established by rule of the board.

12

13 (b) A licensee may renew his license by submitting a
14 renewal application on a form provided by the board,
15 accompanied by a license renewal fee of fifty dollars
16 (\$50.00), and evidence that the licensee obtained not less
17 than six (6) hours of continuing education during the
18 previously immediate two (2) year period as provided by
19 rule of the board.

20

21 (c) The board shall provide for by rule a sixty (60)
22 day grace period after the expiration of the time to renew
23 a license. Any license that is renewed during the grace

1 period authorized under this subsection shall be subject to
2 a late fee as determined by the board in accordance with
3 W.S. 33-1-201.

4

5 **33-50-111. Inactive status.**

6

7 (a) Any license that is not renewed before the
8 expiration of the grace period specified in W.S.
9 33-50-110(c) shall be placed on inactive status for a
10 period not to exceed two (2) years. An inactive license
11 shall expire if it is not reactivated under subsection (b)
12 of this section within two (2) years of being placed on
13 inactive status.

14

15 (b) An inactive license may be reactivated by the
16 board if, not more than two (2) years after a license is
17 placed on inactive status, the holder of the license
18 notifies the board in writing of his intent to reactivate
19 the license, provides proof of compliance with all
20 continuing education requirements under W.S. 33-50-110(b)
21 and pays any fees established by the board.

22

1 **33-50-112. Denial, suspension, revocation and**
2 **reinstatement of license.**

3

4 (a) The board may place a licensee on probation,
5 refuse to issue or renew a license or deny, suspend or
6 revoke a license under this chapter in accordance with the
7 Wyoming Administrative Procedure Act upon a finding by the
8 board that a licensee or applicant:

9

10 (i) Practiced fraud, deceit or misrepresentation
11 in procuring or maintaining a license under this chapter;

12

13 (ii) Used or attempted to use the license of
14 another person;

15

16 (iii) Allowed another person to use his license;

17

18 (iv) Was adjudicated as mentally incompetent
19 under law;

20

21 (v) Was convicted or found guilty of a crime
22 within the immediately preceding seven (7) years that

1 directly relates to the practice of massage therapy or the
2 ability to practice massage therapy;

3

4 (vi) Acted in an unprofessional or unethical
5 manner, as determined by the board, in violation of a
6 nationally recognized code of ethics adopted by the board;

7

8 (vii) Practiced false or misleading advertising;

9

10 (viii) Aided, assisted or advertised any
11 unlicensed person in the practice of massage therapy;

12

13 (ix) Acted with extreme negligence or
14 incompetence, as determined by the board, in the practice
15 of massage therapy;

16

17 (x) Had a license to practice or instruct
18 massage therapy revoked, suspended or denied in another
19 state or jurisdiction for acts similar to acts set out in
20 this section within the immediately preceding three (3)
21 years;

22

1 (xi) Actively provided services beyond the scope
2 of practice or in violation of the rules adopted under this
3 chapter without an appropriate license.

4

5 (b) An application for reinstatement may be made to
6 the board not earlier than three (3) years after the date
7 of the revocation of the license. The board may accept or
8 reject an application for reinstatement and may hold a
9 hearing to consider reinstatement. An applicant for
10 reinstatement aggrieved by any final action of the board
11 may appeal to the district court pursuant to the Wyoming
12 Administrative Procedure Act.

13

14 **33-50-113. Reciprocity.**

15

16 (a) The board may grant a license without examination
17 to any person who submits the requisite fee specified by
18 rule of the board and who at the time of application:

19

20 (i) Holds a current license or certificate in
21 good standing to practice massage therapy in another state
22 or territory of the United States;

23

1 (ii) Submits a certified statement from the
2 appropriate licensing authority of another state or
3 territory of the United States demonstrating to the board
4 that the person is properly credentialed and authorized to
5 practice massage therapy under the laws of that state or
6 territory.

7

8 **33-50-114. Penalties.**

9

10 Unless exempt under W.S. 33-50-108, any person who
11 represents himself as a massage therapist and who engages
12 in the practice of massage therapy in violation of this
13 act, or any person who violates any provision of this
14 chapter is guilty of a misdemeanor punishable by a fine of
15 not more than seven hundred fifty dollars (\$750.00),
16 imprisonment for not more than six (6) months, or both.
17 Each violation shall constitute a separate offense.

18

19 **Section 2.** W.S. 7-19-106(a) by creating a new
20 paragraph (xxxvi) and 7-19-201(a) by creating a new
21 paragraph (xxxi) are amended to read:

22

1 7-19-106. Access to, and dissemination of,
2 information.

3

4 (a) Criminal history record information shall be
5 disseminated by criminal justice agencies in this state,
6 whether directly or through any intermediary, only to:

7

8 (xxxvi) The board of massage therapy for
9 purposes of obtaining background information on persons
10 applying for licensure under title 33, chapter 50 of the
11 Wyoming statutes.

12

13 7-19-201. State or national criminal history record
14 information.

15

16 (a) The following persons shall be required to submit
17 to fingerprinting in order to obtain state and national
18 criminal history record information:

19

20 (xxxi) All persons applying for licensure to the
21 board of massage therapy under title 33, chapter 50 of the
22 Wyoming statutes.

23

1 **Section 3.** For the period beginning with the
2 effective date of this section through June 30, 2023, there
3 is appropriated twenty thousand dollars (\$20,000.00) from
4 the general fund to the department of health. This
5 appropriation shall be expended only for the purpose of
6 providing necessary support and executive secretary
7 services for the licensing board created under section 1 of
8 this act. This appropriation shall not be transferred or
9 expended for any other purpose and any unexpended,
10 unobligated funds remaining from this appropriation shall
11 revert as provided by law on June 30, 2023. It is the
12 intent of the legislature that this general fund
13 appropriation not be included in the board's standard
14 budget request for the immediately succeeding fiscal
15 biennium.

16

1 **Section 4.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2022.

5

6 (b) This subsection, Section 2 of this act and W.S.
7 33-50-104 and 33-50-105 as created by section 1 of this act
8 are effective immediately upon completion of all acts
9 necessary for a bill to become law as provided by Article
10 4, Section 8 of the Wyoming Constitution. Upon this
11 subsection becoming effective, the board of massage therapy
12 may commence drafting and adoption of rules and regulations
13 for the implementation of this act and accept applications
14 for massage therapy licenses to be issued on or after July
15 1, 2022.

16

17

(END)