

HOUSE BILL NO. HB0296

Massage therapist licensing-2.

Sponsored by: Representative(s) Zwonitzer, Dv. and Meyer and Senator(s) Johnson

A BILL

for

1 AN ACT relating to professions and occupations; providing
2 for the licensure of massage therapists as specified;
3 creating a licensing board; requiring a license for massage
4 therapists as specified; providing exceptions; providing
5 licensure requirements as specified; providing definitions;
6 providing for revocation of the license as specified;
7 providing a penalty; providing legislative findings; and
8 providing for an effective date.

9

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

11

12 **Section 1.** W.S. 33-45-101 through 33-45-119 are
13 created to read:

14

15

CHAPTER 45

16

MESSAGE THERAPISTS

1

2 **33-45-101. Short title.**

3

4 This act may be cited as the "Massage Therapy Practice
5 Act."

6

7 **33-45-102. Definitions.**

8

9 (a) As used in this act:

10

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

12

13 (ii) "Department" means the department of
14 administration and information;

15

16 (iii) "Jurisprudence" means the statutes and
17 rules of the state pertaining to the practice of massage
18 therapy;

19

20 (iv) "Massage therapist" means a person who uses
21 the title of massage therapist, is licensed pursuant to
22 this act and administers massage therapy for compensation;

23

1 (v) "Massage therapy" means the treatment of
2 soft tissues for therapeutic purposes as defined in W.S.
3 33-45-103; and

4
5 (vi) "This act" means W.S. 33-45-101 through
6 33-45-119.

7

8 **33-45-103. Massage therapy; therapy; defined.**

9

10 (a) Massage therapy is the treatment of soft tissues
11 for therapeutic purposes, primarily comfort and relief of
12 pain. Massage therapy is a health care service. Massage
13 therapy includes but is not limited to effleurage,
14 petrissage, tapotement, compression, vibration, friction,
15 nerve strokes and Swedish gymnastics. Massage therapy may
16 include the use of oils, salt glows, hot or cold packs or
17 hydrotherapy. Synonymous terms for massage therapy include
18 massage, therapeutic massage, body massage, myomassage,
19 bodywork, body rub or any derivation of those terms.

20

21 (b) The terms "therapy" and "therapeutic massage" do
22 not include the diagnosis or treatment of illness or
23 disease or any service or procedure for which a license to
24 practice medicine, nursing, chiropractic, physical therapy,

1 occupational therapy, acupuncture or podiatry is required
2 by law.

3

4 **33-45-104. License required.**

5

6 It is unlawful for any person to practice massage therapy
7 for compensation, to offer services as a massage therapist
8 for compensation or to purport to be a massage therapist
9 unless that person possesses a license to practice massage
10 therapy under the provisions of this act. No person shall
11 use the title of or represent himself to be a massage
12 therapist or use any other title, abbreviations, letters,
13 figures, signs or devices that indicate that person is a
14 massage therapist unless he is licensed to practice massage
15 therapy pursuant to the provisions of this act.

16

17 **33-45-105. Exemptions.**

18

19 (a) Nothing in this act shall be construed to
20 prevent:

21

22 (i) Qualified members of other recognized
23 professions that are licensed or regulated under the law of
24 this state from rendering services within the scope of

1 their license or regulation, provided they do not represent
2 themselves as massage therapists;

3

4 (ii) Students from rendering massage therapy
5 services within the course of study of an approved massage
6 therapy school and under the supervision of a licensed
7 massage therapy instructor;

8

9 (iii) Visiting massage therapy instructors from
10 another state or territory of the United States, the
11 District of Columbia or any foreign nation from teaching
12 massage therapy provided the instructor is duly licensed or
13 registered, if required, and is qualified in his place of
14 residence for the practice of massage therapy. The board
15 shall establish by rule the duration of stay for a visiting
16 massage therapy instructor; and

17

18 (iv) Native American healers from using
19 traditional or Native American healing practices. Healers
20 who use these practices but apply for a license or
21 registration pursuant to the Massage Therapy Practice Act
22 shall comply with all licensure requirements.

23

24 **33-45-106. Board created; membership.**

1

2 (a) There is created the board of massage therapy
3 within the department of administration and information.

4

5 (b) The board shall consist of five (5) members who
6 are residents of this state. Members of the board shall be
7 appointed by the governor. Three (3) members of the board
8 shall be licensed massage therapists, each with at least
9 five (5) years of massage therapy practice in this state.
10 Two (2) members of the board shall be public members. The
11 initial three (3) professional members appointed shall not
12 be required to meet the requirements for licensure. The
13 public members shall not have been licensed or have any
14 financial interest, direct or indirect, in the profession
15 regulated. The terms of the office of the members
16 appointed shall be three (3) years or until their
17 successors have qualified, except of the initial board:

18

19 (i) Two (2) board members shall be appointed for
20 a term of three (3) years, at least one (1) of whom shall
21 be a massage therapist;

22

1 (ii) Two (2) board members shall be appointed
2 for a term of two (2) years, at least one (1) of whom shall
3 be a massage therapist; and

4
5 (iii) One (1) board member shall be appointed
6 for a term of one (1) year.

7
8 (c) Each member of the board shall hold office until
9 the expiration of the term for which appointed or until a
10 successor has been appointed and qualified.

11
12 (d) No board member shall serve more than two (2)
13 consecutive terms.

14
15 (e) The board shall elect annually a chairman and
16 other officers as it deems necessary. The board shall meet
17 as often as necessary for the conduct of business, but no
18 less than twice a year. Meetings shall be called by the
19 chairman or upon the written request of three (3) or more
20 members of the board. Three (3) members, at least one (1)
21 of whom is a public member, shall constitute a quorum.

22
23 (f) The governor may remove any member of the board
24 as provided by W.S. 9-1-202. Any board member may be

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

4

5 (g) Members of the board shall receive per diem in
6 the same manner and amount as state employees under W.S.
7 9-3-102 and shall receive no other compensation or
8 allowance.

9

10 **33-45-107. Board duties.**

11

12 (a) The board shall have the power to:

13

14 (i) Adopt rules and regulations necessary to
15 carry out the provisions of this act;

16

17 (ii) Provide for the evaluation of the
18 qualifications of applicants for licensure or registration
19 under this act;

20

21 (iii) Provide for the issuance of licenses or
22 registrations to applicants who meet the requirements of
23 this act;

24

1 (iv) Provide for the inspection, when required,
2 of the business premises of any licensee during regular
3 business hours;

4
5 (v) Establish minimum training and educational
6 standards for licensure;

7
8 (vi) Establish a process for approval of
9 training programs and massage therapy schools;

10
11 (vii) Provide for the investigation of persons
12 engaging in practices that may violate the provisions of
13 this act;

14
15 (viii) Revoke, suspend or deny a license or
16 registration in accordance with the provisions of the
17 Wyoming Administrative Procedure Act;

18
19 (ix) Adopt a code of ethics; and

20
21 (x) Provide for the investigation of complaints
22 against licensees.

23

1 **33-45-108. Requirements for licensure; registered**
2 **instructors.**

3

4 (a) The board shall issue a license to practice
5 massage therapy to any person who files a completed
6 application, accompanied by the required fees, and who
7 submits satisfactory evidence that the applicant:

8

9 (i) Has reached the age of majority;

10

11 (ii) Has completed all educational requirements
12 established by the board;

13

14 (iii) Has completed a training program approved
15 by the board, at a school approved by the board, that
16 program being at least five hundred (500) hours in length
17 and consisting of the following areas: anatomy, physiology,
18 massage therapy, business, hydrotherapy, first aid,
19 cardiopulmonary resuscitation and professional ethics. If
20 the approved training program is less than five hundred
21 (500) hours, the applicant shall provide documentation of
22 up to three hundred (300) hours of alternative qualifying
23 experience, including but not limited to professional
24 massage therapy experience, apprenticeship training in

1 massage therapy, clinical or internship training and prior
2 experience in a health career, to be approved by the board;
3 and

4
5 (iv) Demonstrates professional competence by
6 passing a written examination as prescribed by the board.

7
8 (b) The board may also require a practical
9 examination as a condition for licensure.

10
11 (c) The board shall register as a massage therapy
12 instructor any applicant who:

13
14 (i) Is currently licensed as a massage therapist
15 in another state or by a nationally recognized massage
16 therapist association; and

17
18 (ii) Proves to the board's satisfaction that he
19 meets the minimum requirement of two (2) years of
20 experience in his area of instruction.

21

22 **33-45-109. Display of license.**

23

1 A massage therapy license or registration issued by the
2 board shall at all times be posted in a conspicuous place
3 in the holder's principal place of business.

4

5 **33-45-110. Assignability of license.**

6

7 A license or registration issued pursuant to this act is
8 not assignable or transferable.

9

10 **33-45-111. Examinations.**

11

12 (a) Examinations shall be held at least twice each
13 year on a date and at a location established by the board.
14 Applicants who have been found to meet the education and
15 experience requirements for licensure shall be scheduled
16 for the next examination following the filing of the
17 application. The board shall establish by rule the
18 examination application deadline and other rules relating
19 to taking and retaking licensure examinations. The board
20 shall determine the passing grade on examinations.

21

22 (b) The board shall specify by rule the general areas
23 of competency to be covered by examinations for licensure
24 and ensure that the examinations measure adequately both an

1 applicant's competency and knowledge of related statutory
2 requirements. Professional testing services may be utilized
3 for the examinations.

4

5 (c) After taking the written examination, each
6 applicant may be tested in the practical application of
7 massage therapy techniques in a manner and by methods as
8 shall reveal the applicant's skill and knowledge.

9

10 (d) All licensing examinations shall be conducted in
11 a manner that the applicants shall be known to the board by
12 number until the examination is completed and the grade
13 determined. A record of each examination shall be filed in
14 the board office and be available for inspection for a
15 period of not less than two (2) years immediately following
16 the examination.

17

18 (e) An applicant who has received a passing score on
19 the written examination offered by the national
20 certification board for therapeutic massage and bodywork
21 for their national certification program shall not be
22 required to take the written examination under this section
23 for licensure in Wyoming.

24

1 **33-45-112. Temporary license.**

2

3 (a) Prior to examination, an applicant for licensure
4 may obtain a temporary license to engage in the practice of
5 massage therapy, provided that the applicant meets all the
6 requirements for licensure except completion of the
7 examination.

8

9 (b) The temporary license is valid until the results
10 of the next scheduled examination are available and a
11 license is issued or denied. If approved, the applicant
12 shall be issued the initial license for the remainder of
13 the year.

14

15 (c) No more than one (1) temporary license may be
16 issued to an individual, and no temporary license shall be
17 issued to an applicant who has previously failed the
18 examinations.

19

20 **33-45-113. Licensure by credentials.**

21

22 After successful completion of an examination covering
23 related statutory requirements, the board may license an
24 applicant, provided that he possesses a valid license or

1 registration to practice massage therapy issued by the
2 appropriate examining board under the laws of any other
3 state or territory of the United States, the District of
4 Columbia or any foreign nation and has met educational
5 requirements substantially equivalent to or exceeding those
6 established pursuant to this act.

7

8 **33-45-114. License or registration renewal;**
9 **continuing education.**

10

11 (a) Massage therapy licenses shall expire annually on
12 a date established by rule. Each licensee shall renew his
13 license by submitting a renewal application on a form
14 provided by the board. The board may establish continuing
15 educational requirements as a condition of the renewal of
16 licenses.

17

18 (b) A sixty (60) day grace period shall be allowed
19 each license or registration holder after the end of the
20 renewal period, during which time a license or registration
21 may be renewed upon payment of the renewal fee and a late
22 fee as prescribed by the board.

23

24 **33-45-115. Inactive status.**

1

2 (a) Any license not renewed at the end of the sixty
3 (60) day grace period shall be placed on inactive status
4 for a period not to exceed two (2) years. At the end of two
5 (2) years, if the license has not been reactivated, it
6 shall automatically expire.

7

8 (b) If, within a period of two (2) years from the
9 date the license was placed on inactive status, the massage
10 therapist wishes to resume practice, the board shall be
11 notified in writing, and, upon proof of completion of any
12 continuing education or refresher courses prescribed by
13 regulation of the board and payment of an amount set by the
14 board in lieu of all lapsed renewal fees, the license shall
15 be restored in full.

16

17 **33-45-116. License fees.**

18

19 (a) The board shall establish a schedule of
20 reasonable fees for applications, licenses, registrations,
21 renewals, placement on inactive status and necessary
22 administrative fees in accordance with W.S. 33-1-201 for
23 the following:

24

1 (i) Initial licensure application;

2

3 (ii) Initial license fee;

4

5 (iii) Examination fee;

6

7 (iv) Annual renewal fee;

8

9 (v) Fee for reactivation of an inactive license;

10 and

11

12 (vi) Late renewal fee.

13

14 **33-45-117. Advertising.**

15

16 Each massage therapist licensed under the provisions of
17 this act shall include the number of his license, in any
18 advertisement of massage therapy services appearing in any
19 newspaper, airwave transmission, telephone directory or
20 other advertising medium.

21

22 **33-45-118. Denial, suspension, revocation and**
23 **reinstatement of licenses.**

24

1 (a) The board may place on probation as specified by
2 the board or refuse to issue or renew or may deny, suspend
3 or revoke any license or temporary license held or applied
4 for under this act in accordance with the Wyoming
5 Administrative Procedure Act upon a finding by the board
6 that the licensee, registrant or applicant:

7

8 (i) Is guilty of fraud, deceit or
9 misrepresentation in procuring or attempting to procure a
10 license or registration provided for in this act;

11

12 (ii) Attempted to use as his own the license of
13 another;

14

15 (iii) Allowed the use of his license by another;

16

17 (iv) Has been adjudicated as mentally
18 incompetent by regularly constituted authorities;

19

20 (v) Has been convicted or found guilty,
21 regardless of adjudication, of a crime, in any
22 jurisdiction, that directly relates to the practice of
23 massage therapy or to the ability to practice massage

1 therapy. Any plea of nolo contendere shall be considered a
2 conviction for the purposes of this section;

3

4 (vi) Is guilty of unprofessional or unethical
5 conduct or a violation of the code of ethics;

6

7 (vii) Is habitually or excessively using
8 controlled substances or alcohol;

9

10 (viii) Is guilty of false, deceptive or
11 misleading advertising;

12

13 (ix) Is guilty of aiding, assisting or
14 advertising any unlicensed or unregistered person in the
15 practice of massage therapy;

16

17 (x) Is grossly negligent or incompetent in the
18 practice of massage therapy; or

19

20 (xi) Has had a license or registration to
21 practice massage therapy revoked, suspended or denied in
22 any jurisdiction, territory or possession of the United
23 States or another country for acts of the licensee or
24 registrant similar to acts described in this section. A

1 certified copy of the record of conviction shall be
2 conclusive evidence of such conviction.

3

4 (b) Disciplinary proceedings may be instituted by
5 sworn complaint of any person, including members of the
6 board, and shall conform with the provisions of the Wyoming
7 Administrative Procedure Act.

8

9 (c) The board may establish the guidelines for the
10 disposition of the disciplinary cases. Such guidelines may
11 include periods of probation, conditions of probation or
12 reissuance of a license or registration.

13

14 (d) License and registration holders who have been
15 found culpable and sanctioned by the board shall be
16 responsible for the payments of all costs of the
17 disciplinary proceedings.

18

19 **33-45-119. Penalties.**

20

21 Any person who violates any provision of this act is guilty
22 of a misdemeanor, and upon conviction shall be punished by
23 a fine not to exceed seven hundred fifty dollars (\$750.00),

1 imprisonment for a period not to exceed six (6) months, or
2 both.

3

4 **Section 2.** The legislature recognizes that the
5 practice of massage therapy is potentially dangerous to the
6 public. Therefore, it is necessary and in the interest of
7 public health, safety and welfare, to regulate the practice
8 of massage therapy.

9

10 **Section 3.** This act is effective July 1, 2007.

11

12

(END)