REVIEW OF HOUSE BILL 733

WHICH PROPOSES TO REGULATE MASSAGE THERAPISTS

GEORGIA OCCUPATIONAL REGULATION REVIEW COUNCIL
JANUARY 2002

EXECUTIVE SUMMARY

As provided in O.C.G.A. 43-1A, the Georgia Occupational Regulation Review Council reviews all bills proposing licensure of a profession or business referred to it by the chairperson of the legislative committee of reference. Accordingly, the Council, at the request of the Chairperson of the House Health and Ecology Committee, has reviewed House Bill 733, which proposes to license Massage Therapists.

During the course of the study, most information was obtained from the applicant group, the Georgia Chapter of the American Massage Therapy Association, and other interested parties.

FINDINGS

Adhering to the criteria in O.C.G.A. 43-1A, which the Council is required to use to make its basis for a decision, the Council found the following conditions exist:

- The potential for harm to the public appears to be remote and would not be alleviated by creating a separate and unique board; there is no documented evidence of actual harm to the public.
- Specialized training appears to be needed but the general public has the ability to identify trained, qualified practitioners.
- Citizens of the state already have a means of protection available to them.
- The overall cost effectiveness and economic impact of licensing massage therapists on the citizens of the state cannot be determined.

RECOMMENDATION

The Council does not recommend passage of House Bill 733, which proposes to license massage therapists, because the proposal does not meet the criteria set forth in O.C.G.A. 43-1A-6. As discussed in the findings beginning on page nine, the nature and complexity of the problems identified by the applicant group would not be alleviated by recommending passage of House Bill 733.

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INTRODUCTION

House Bill 733 proposes to regulate massage therapists in Georgia. House Bill 733 would create a new board, the Georgia Board of Massage Therapists, assigned to the Licensing Division of the Office of the Secretary of State.

In 1997, the Georgia Occupational Regulation Review Council (GORCC) considered Senate Bill 300, which proposed to amend Chapter 14 of Title 43 of the *Official Code of Georgia Annotated* by regulating massage therapists in a similar manner as House Bill 733.

Membership of the Georgia Occupational Regulation Review Council is shown in Exhibit 1.

Exhibit 1
Georgia Occupational Regulation Review Council
Membership

Standing Members	Representing
Brenda Purcell, Chairperson	Office of Planning and Budget
Earl Harris	Department of Agriculture
Amy Feuss	Department of Human Resources
Paul Burkhalter	Department of Natural Resources
Bobby Lenihan	Department of Revenue
Jim Hurt	Governor's Office of Consumer Affairs
Steve Carlton	Office of Commissioner of Insurance
Mollie Fleeman	Office of Secretary of State
Legislative Appointees	**Representing**
Representative Nan Orrock	Georgia House of Representatives
Senator Tim Golden	Georgia Senate

In reviewing House Bill 733, the Georgia Occupational Regulation Review Council obtained input from as many sources as possible. Council staff sent a questionnaire to the applicant group, the American Massage Therapy Association, and other organizations, groups, and individuals that indicated an interest in the proposed legislation. After receiving input from these groups, additional input was obtained from the following groups and agencies:

- Association of County Commissioners;
- Better Business Bureaus;
- Georgia Chamber of Commerce;
- Georgia Municipal Association;
- Georgia Public Policy Foundation;
- Georgia Sheriffs' Association;
- Governor's Office of Consumer Affairs;

- Municipal and County Governments;
- Public Affairs Department of the Council of Better Business Bureaus, Inc.;
- Several County Sheriffs Offices and Police Departments;
- Several State Agencies; and
- Other States.

All groups, which responded to the Council's request for information and anyone who requested notification of Council meetings, were informed in advance of the time and place of each meeting. Representatives from all interested parties were given the opportunity to present information to the Council, either by oral presentation or through written material. Meeting dates and times were published in the *Fulton County Daily Report* in accordance with the State's open meeting laws.

DESCRIPTION OF PROPOSED LEGISLATION

House Bill 733 proposes to regulate massage therapists. The major provisions of the bill are as follows:

- Establishes a seven member Georgia Board of Massage Therapy consisting of five massage therapists and two appointed from the public at large with no connection whatsoever with the practice or profession of massage therapy. Authorizes the board to promulgate and adopt rules and regulations, establish license fees and forms, and conduct examination of applicants for licensure.

- Defines massage therapy as "...intentional manipulation of the muscular structure and soft tissues of the human body with the intention of positively affecting the health and well-being of the client."

- Sets qualifications an applicant must meet as follows:

  - Must be at least 18 years of age;

  - Has completed a course of study at a board approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and

  - Has received a passing grade on an examination specified by the board.

- Renewal requirements will be determined by the board; the requirements will include continuing education requirements not to exceed 25 classroom hours per biennium.

- No massage establishment will be allowed to operate without a license; the board would adopt rules governing the operation of establishments and their

facilities, personnel, safety and sanitary requirements, financial responsibility and insurance coverage.

- The board is authorized to adopt rules governing the periodic inspection of massage establishments. Grounds for disciplinary action are specified within the bill in 43-24A-16.

- The bill prohibits and makes unlawful advertising and operating as a massage therapist or massage establishment without a license.

- Individuals licensed to practice medicine, nursing, osteopathy, chiropractic, podiatry, barbers, cosmetologists, estheticians, athletic trainers, physical therapists and occupational therapists are exempt from the licensing provisions for massage therapy.

- Applies provisions to local jurisdictions by stating the following: "A county or municipality, within its jurisdiction, may regulate persons and establishments licensed under this chapter. Such regulation shall not exceed the powers of the state under this chapter or be inconsistent with this chapter. This Code section shall not be construed to prohibit a county or municipality from enacting any regulation of persons or establishments not licensed pursuant to this chapter. No provision of any ordinance enacted by a city or county that is in effect before July 1, 2002, and that relates to the practice of massage therapy may be enforced against a person who is issued a license by the board under this chapter."

A detailed summary of the House Bill 733 is included in Appendix A and a copy of the bill is reproduced in Appendix B.

PRESENT PRACTICES

Massage therapy is described as intentional manipulation of the muscular structure and soft tissues of the human body with the intention of positively affecting the health and well being of the client. According to the American Massage Therapy Association, massage therapists provide services in a wide range of settings such as:

- Athletic clubs;
- Chiropractic and physical therapy offices;
- Day spas, salons and resorts;
- Hospitals and assisted living facilities;
- House calls to personal residences, hotels or businesses;
- Medical doctors and psychotherapy offices; and
- Private practice offices.

Practitioners frequently work independently and not as employees of an organization.

Potential for Harm

The applicant group has identified several areas that they believe pose potential harm to the general public.

First, they state that inadequately trained massage practitioners may cause risk of physical injury to a consumer when too much pressure is applied to an endangerment site (". . . areas in which nerves and blood vessels surface close to the skin, and are not well-protected by muscle or connective tissue. Consequently, deep sustained pressure into these areas could damage these vessels and nerves."). Also, they expressed a concern that an inadequately trained massage practitioner may not be knowledgeable of the effect of massage therapy on infectious diseases and could spread the infection by performing massage on a client. Trained massage therapists are aware of contraindications (factors that render the carrying out of a medical procedure inadvisable) and untrained therapists increase the risk of further injury if massage is administered.

Second, the applicant group states that since prostitutes pose as "massage therapists", they promote the risk of sexual assault for clients, which could cause psychological and emotional harm.

Third, they indicate more people are seeking the benefits of massage therapy but cannot identify qualified practitioners in telephone and newspaper advertisements, because there is little to distinguish the trained, qualified practitioners from untrained persons and/or fronts for illicit services. Without regulation, persons with no training may perform "massage therapy."

Complaints from Consumers

While trying to locate complaints concerning massage therapists, the Georgia Sheriffs' Association, as well as many county sheriffs' offices and police departments, was contacted. None of these offices had received any complaints concerning massage therapists.

The national office of the American Massage Therapy Association was contacted and staff was told that grievance information was confidential information, released via subpoena only. Staff also contacted Associated Bodywork and Massage Professionals, a professional membership organization, and no complaint claims ever had been filed in Georgia.

The Governor's Office of Consumer Affairs (OCA) was contacted to determine the number and nature of complaints on massage therapy services they had received since 1999. OCA receives complaints from consumers and investigates the complaints as warranted. OCA staff classifies each complaint received as to the nature of the complaint based on the initial oral or written information provided by the complainant. No complaints received during these past several years.

Staff also contacted the Better Business Bureau offices serving metropolitan Atlanta, Albany, Augusta, Columbus, Macon, Savannah and Chattanooga, Tennessee (which serves 10 northern Georgia counties). Better Business Bureaus file complaints by the name of the business or individual for which a complaint has been reported. Each of the Better Business Bureau offices reported they had received no complaints relative to massage therapy during the past two years.

In addition, staff contacted the Public Affairs Department of the Council of Better Business Bureaus in Arlington, Virginia with regards to the number of complaints they had received pertaining to the profession. No complaints were received during the past two years.

PRESENT REQUIREMENTS AND VOLUNTARY EFFORTS

Related State Statutes

Although massage therapy is not specifically regulated under Georgia law, several statutes appear related to this proposal.

Licensed Professions With Some Relatedness in Their Scope of Practice

Licensing of Physical Therapists

To be licensed as a physical therapist, O.C.G.A. 43-33-12 states that individuals who provide physical therapy services must be "a graduate of an educational program that prepares physical therapists (a bachelors degree in physical therapy) and which is accredited by a recognized accrediting agency and approved by the board." The scope of practice of physical therapists is defined in the statutes as follows:

> ". . . the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain from injury, disease, and any other bodily and mental conditions and includes the administration, interpretation, documentation, and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation, and modification of treatment and instruction, including the use of physical measures, activities, and devices, for preventative and therapeutic purposes, and the provision of consultative, educational, and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain."

Licensing of Chiropractors

To be licensed as a chiropractor, O.C.G.A. Section 43-9-7 states that individuals who provide chiropractic services "shall be a graduate of a chiropractic school or college accredited by the Council on Chiropractic Education." The scope of practice of chiropractors is defined in the statutes as follows:

"The chiropractic adjustment of the articulations of the human body may include manual adjustments and adjustments by means of electrical and mechanical devices which produce traction or vibration. Chiropractors who have complied with this chapter may also use in conjunction with adjustments of the spinal structures electrical therapeutic modalities which induce heat or electrical current beneath the skin, including therapeutic ultrasound, galvanism, microwave, diathermy, and electromuscular stimulation. Chiropractors who have complied with this chapter may utilize and recommend hot and cold packs and nonprescription, over-the-counter structural supports for the articulations of the human body which are commonly available through retail pharmacy outlets . . ."

Related Criminal Statutes

One primary area of harm sited by the applicant group is unethical behavior. In House Bill 733 under Section 43-24A-21, sexual misconduct in the practice of massage therapy would be prohibited. In addition, the applicant group cited several additional issues, including sexual misconduct, which are addressed by Georgia's criminal statutes. Each of these statutes is presented in its entirety in Appendix C and briefly described below:

- O.C.G.A. Sections 16-6-9 through 10 define the offenses of prostitution and keeping a place of prostitution, and Section 16-6-13 provides for violators of Section 16-6-10 to be punished as a misdemeanor of a high and aggravated nature and violators of Section 16-6-9 to be punished as a misdemeanor.

- O.C.G.A. Section 16-6-17 makes it unlawful for any masseur or masseuse (defined as persons who practice massage or physiotherapy, or both) to massage any person in any place for the purpose of lewdness, assignation, prostitution or masturbation for hire. Violators shall be guilty of a misdemeanor.

- O.C.G.A. Section 16-6-22.1 provides that a person commits the offense of sexual battery when he intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person. Offenders shall be guilty of a misdemeanor of a high and aggravated nature.

Voluntary Efforts

Massage practitioners voluntarily may obtain professional certification by passing a national examination and join one or more of several professional membership associations. A brief description of these voluntary options is presented in the following paragraphs.

Voluntary National Certification Program

The National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) is an independent, private, non-profit organization comprised of nine members who represent massage therapists, massage and bodywork school administrators, as well as

individuals who represent the general public. NCBTMB oversees a national certification examination program for massage practitioners. The National Certification Exam has become the standard for licensure used by at least 16 of the 31 states that regulate massage. Individuals must meet the following requirements before they will be permitted to take the examination:

Practitioners must complete a minimum of 500 in-class hours of supervised education and training in a formal therapeutic massage and/or bodywork program. For those individuals who pass the national examination, they are certified for a four-year period. To have the certification renewed at the end of that four-year period, an individual must meet the following requirements:

- Complete 50 hours of continuing education during the four-year certification period.
- AND must have performed 200 hours of hands-on therapeutic massage and/or bodywork sessions during the four-year certification period.

NCBTMB has a published Code of Ethics, which is presented in Appendix D.

Professional Membership Associations

There are several professional membership associations that massage practitioners may voluntarily join that promote ethical behavior, provide training, educate the public and/or offer certification.

American Massage Therapy Association

The Georgia Chapter of the American Massage Therapy Association (AMTA) is the applicant group supporting this proposal to regulate massage therapists. They have adopted a code of ethics – reproduced in Appendix E – for their members and have been active nationally in promoting the benefits of massage therapy. AMTA's Commission on Massage Therapy Accreditation (COMTA) accredits massage therapy training programs according to the guidelines of the U.S. Department of Education.

To qualify for professional membership in this association, an individual must graduate from a COMTA accredited program or pass an examination or hold a jurisdictional license consistent with AMTA policy. In addition, an individual must complete an established level of continuing education in accordance with AMTA policy. AMTA indicates they have approximately 47,000 members in more than 30 countries and 860 members in the Georgia Chapter.

AMTA has a formal policy on grievances against its members with a Commission on Grievances. Grievance information was requested from AMTA; however, no information was provided.

Associated Bodywork and Massage Professionals

Associated Bodywork and Massage Professionals (ABMP) has over 35,000 members with 597 members in the state of Georgia. They have adopted a Code of Ethics – reproduced in Appendix F – for their members and have been serving the massage, bodywork, somatic and esthetic professions since 1987.

ABMP has a formal grievance policy. Any member of the public may file a complaint alleging a violation of conduct or the Code of Ethics by an ABMP member by writing a letter to the ABMP Board of Directors. No grievances have been filed in Georgia within the previous two years.

OTHER STATE PROGRAMS

Thirty states, as well as the District of Columbia, currently license, certify or register massage therapy practitioners. Nineteen of these states created a board of massage therapy to handle regulation. Since 1997, nine of these states passed legislation instituting regulation. Each state's regulatory program is summarized in Appendix G.

Staff contacted fifteen of the thirty-one states and asked why regulation was seen as necessary. Of the states contacted, only eight states responded. Of those eight states, six states—Delaware, Iowa, New Hampshire, Oregon, Tennessee and Utah—stated regulation was seen as necessary to provide a degree of professionalism and eliminate prostitution. The remaining two states, New York and Ohio, stated that regulation was seen as necessary to protect the overall health and well-being of the public and that this profession was considered part of the health/medical industry.

FINDINGS

The Georgia Occupational Regulation Review Council is required by O.C.G.A. 43-1A-6 to apply the following criteria when evaluating whether a profession or business should be regulated:

- Whether the unregulated practice of an occupation may harm or endanger the health, safety, and welfare of citizens of the state and whether the potential for harm is recognizable and not remote;

- Whether the practice of an occupation requires specialized skill or training, and whether the public needs and will benefit by assurances of initial and continuing occupational ability;

- Whether the citizens of this state are or may be effectively protected by other means; and

- Whether the overall cost effectiveness and economic impact would be positive for citizens of the state.

House Bill 733, presented to the Council for review by the Chairperson of the House of Representatives Health and Ecology Committee, proposes to regulate massage therapists. In this review, the Council has assessed, based on the criteria set forth above, whether or not massage therapists should be regulated, and, if so, what is the least restrictive form of such regulation.

Our findings are as follows:

The potential for harm to the public appears to be remote and would not be alleviated by creating a separate and unique board; there is no documented evidence of actual harm to the public.

The applicant group cited the following three areas that they believe pose potential harm to the general public:

- Risk of physical injury to endangerment sites and contraindications and effect of massage on infectious diseases;
- Psychological or emotional harm if sexually assaulted by prostitutes posing as "massage therapists"; and
- Inability to identify qualified practitioners through advertisement.

The applicant group stated there are an estimated 5,700 massage therapists in Georgia and that each therapist performs an average of 20 one-hour sessions per week. This information translates into almost 6,000,000 massages currently being performed in Georgia during a one-year period. Our review of available information indicates that the total number of complaints and other incidents cited is very small when considered in comparison with the number of massages performed in the state within a one-year period and does not indicate a recognizable harm to the public. Of those complaints cited, many allege sexual misconduct, which under Georgia law is a criminal act.

In response to a staff inquiry on behalf of the Council, the following entities researched their files for complaints against massage therapists: American Massage Therapy Association, Associated Bodywork and Massage Professionals, Georgia Sheriffs' Association, several County Sheriffs' Offices and Police Departments, Governor's Office of Consumer Affairs, Better Business Bureaus, and Council of Better Business Bureaus, Incorporated.

The following information is similar to information presented to the Council in a previous review of Senate Bill 300 in 1997. The applicant group indicated that there is a potential for a massage practitioner to cause physical harm to a client if the client has undisclosed or unidentified physical problems. In their submission of information to the Council supporting regulation of massage therapists, the applicant group provided copies of several anonymous, individual complaints alleging improper behavior of a few individuals. The Atlanta School of Massage received these complaints concerning a few

previous students. In addition, the applicant group orally described several other instances in which physical harm was believed to have resulted from a massage. However, no documented evidence was provided. This information, although helpful, does not suggest that widespread harm is resulting from massage therapists being unregulated. It should be noted that this information has not changed significantly from the information submitted in 1997.

Individuals who have medical problems or physical disabilities are more likely to be under the care of a physician and utilize the services of other licensed professionals that include some, if not most, of the services performed by massage therapists. Based on information provided to the Council, physical therapists and chiropractors, which professions are currently licensed, may include massage as an element of their treatment to patients. The proposed scope of practice for massage therapists appears to be related to the statutorily established scope of practice for physical therapists and chiropractors and could create confusion among consumers.

Specialized training appears to be needed but the general public has the ability to identify trained, qualified practitioners.

Based on information presented by the applicant group and further research, it is evident that there is a body of knowledge with which practitioners need to be familiar to be most effective in rendering their services. Practitioners must be aware of endangerment sites, contraindications and the effect of massage on infectious diseases. In addition, there are many different techniques and procedures that may be employed in the practice of massage therapy, which require knowledge, technical skills and assessment capabilities for safe practice. Therefore, specialized training appears to be needed.

The decision to obtain massage therapy services is largely discretionary and, as previously stated, there currently exist other licensed professions, which provide similar services. Additionally, there are mechanisms, which permit the general public to differentiate between trained, qualified practitioners and other practitioners. A voluntary national certification program is administered by an independent, non-profit organization through which massage practitioners may obtain professional certification. This program provides standards for education, as well as training. In addition, there are at least two voluntary professional organizations, which qualified massage practitioners may join. These organizations require continuing education and have an impressive code of ethics to which members must adhere. By confirming that a practitioner is certified by the non-profit organization and/or is a member of one of the professional associations, a prospective client currently can select a qualified practitioner.

Citizens of the state already have a means of protection available to them.

The applicant group professes that one of the greatest harms to the general public of having unlicensed massage therapists is sexual assault to clients. While the Council recognizes and understands that a potential for harming the public does exist, creating a board would not alleviate this problem. This problem still will exist. As the applicant group acknowledges, the general public is currently protected by Georgia's criminal statutes,

which deal with sexual misconduct, as with any profession. Therefore, a legal course of action currently exists for these types of complaints.

The voluntary professional organizations have formal grievance policies for consumer complaints. Any member of the public may file a complaint alleging violation of conduct or the Code of Ethics. The consumer may not obtain information concerning previous complaints against therapists but the consumer may file a formal complaint.

The overall cost effectiveness and economic impact of licensing massage therapists on the citizens of the state cannot be determined.

Since massage practitioners are largely independent contractors, it is possible any regulation that requires additional training and passage of an examination could reduce the number of individuals providing these services. However, the decision to obtain the services of massage therapists is largely discretionary, making continued competition among members of the profession probable. Therefore, it is not possible to determine if regulating massage therapy would cause the cost of services to the general public to increase.

In the proposed bill, Section 43-24A-23 includes a provision that would affect local ordinances. The provision states that local governments have the authority to regulate massage therapists as long as they do not supersede the powers of the state. This provision was added per the applicant group to ensure that local municipalities treat licensed massage therapists uniformly through business licenses, fees and disciplinary actions. However, it is not clear whether or not this provision, without changing other laws governing local government, would affect the way massage therapists are locally governed. If regulation occurs, the creation of a board would not establish consistent licensing practices and disciplinary actions for municipalities. Therefore, it is not possible to determine the changes in regulation at the local level.

RECOMMENDATION

The Council does not recommend passage of House Bill 733, which proposes to license massage therapists, because the proposal does not meet the criteria set forth in O.C.G.A. 43-1A-6. As discussed in the findings beginning on page nine, the nature and complexity of the problems identified by the applicant group would not be alleviated by recommending passage of House Bill 733.

Addendum to the Report

During the course of the review of House Bill 733, several Council members expressed concern regarding the provisions of the O.C.G.A. 43-1A because of the emphasis placed on documentation of actual physical harm. Specifically, the Council members expressed concern regarding the limitations put on the Council's deliberations and the strict criteria that is required to be met in order for professions to document and prove that harm exists and necessitates regulation. The law requires evidentiary proof that unregulated professions pose a potential for harm that is recognizable and not remote; that

the public needs assurances that initial and continuing occupational ability is required for practice; and that the only way to alleviate this is to create a licensing board. This proof is contingent upon looking at actual complaints and documentation that actual harm was inflicted upon the general public.

APPENDIX A

SUMMARY OF HOUSE BILL 733

APPENDIX A

Massage Therapists

SUMMARY	HOUSE BILL 733
Proposed Regulation	Amends Title 43, Chapter 24 of the O.C.G.A. to provide for the licensing of massage therapists effective July 2, 2002.
Definitions	•Apprentice—person approved by board to study massage under instruction of licensed massage therapist •Board—Georgia Board of Massage Therapists •Board approved massage school—facility which meets minimum standards for training and curriculum as determined by rule of board and which is regulated pursuant to Part 1A of Article 7 of Chapter 3 of Title 20, known as 'Nonpublic Postsecondary Educational Institutions Act of 1990,' or equivalent licensing authority of another state or is within public school system of this state •Chair massage or seated massage—massage performed on site, where no oils are used and client is seated upright and remains fully clothed •Establishment—site or premises wherein massage therapist practices massage. Locations offering on-site massage to their employees or patrons are exempt from obtaining establishment license

APPENDIX A

Massage Therapists

Definitions (continued)	•Licensure—procedure by which person, otherwise referred to in this chapter as 'practitioner,' applies to board for approval to practice massage or to operate establishment •Massage therapist—person who is licensed under this chapter and who engages in practice of massage therapy for compensation •Massage therapy—intentional manipulation of muscular structure and soft tissues of human body with intention of positively affecting health and well-being of client •On-site massage—offering of services at an exempt location other than massage establishment
Type of Regulation	LICENSURE by examination.
Initial Requirements	EDUCATION: 1. Must be at least 18 years of age or have received a high school diploma or general educational development (GED) diploma. 2. Must have completed a course of study at a board approved massage school or an apprenticeship program that meets standards adopted by the board. GENERAL: 1. Must have received a passing grade on an examination specified by the board. 2. Must pay the required license fee.
Renewal Requirements	The Board shall establish continuing education requirements and criteria for the approval of continuing education programs or courses. Renewal of license registration for massage establishments shall be accomplished pursuant to rules adopted by the Board.
Grandfather Clause	None.

APPENDIX A

Massage Therapists

Create or Modify Existing Licensing Board	Creates Georgia Board of Massage Therapists, which shall be composed of seven members.

APPENDIX B

HOUSE BILL 733

House Bill 733

By: Representatives Hugley of the 133rd, Watson of the 70th, Buckner of the 95th, Taylor of the 134th and Bohannon of the 139th

A BILL TO BE ENTITLED

AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to create the Georgia Board of Massage Therapists; to provide for definitions; to provide for members, officers, qualifications, duties, powers, authority, appointments, terms of office, oaths, and vacancies; to provide for meetings; to provide for quorums; to provide for records; to provide for rules and regulations; to provide for examinations; to provide for licenses; to provide for expenses; to provide for fees; to prohibit certain acts; to provide for qualifications of massage therapists; to provide for applications for licenses for massage therapists; to provide for renewal of licenses; to provide for the licensing and regulation of massage establishments; to regulate advertisements; to provide for immunity; to provide for denial, suspension, and revocation of licenses; to provide for practices and procedures; to provide for appeals; to provide for the powers of counties and municipalities; to prohibit or regulate certain conduct; to provide for exemptions; to provide for penalties; to provide for exceptions; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by adding immediately following Chapter 24 a new Chapter 24A to read as follows:

"CHAPTER 24A

43-24A-1.

This chapter shall be know and may be cited as the 'Massage Practice Act.'

ATTACHMENT B

1 43-24A-2.
2 The General Assembly recognizes that the practice of massage is potentially dangerous to
3 the public in that massage therapists must have a knowledge of anatomy and physiology
4 and an understanding of the relationship between the structure and the function of the
5 tissues being treated and the total function of the body. Massage is therapeutic, and
6 regulations are necessary to protect the public from unqualified practitioners. It is therefore
7 deemed necessary in the interest of public health, safety, and welfare to regulate the
8 practice of massage in this state; however, restrictions shall be imposed to the extent
9 necessary to protect the public from significant and discernible danger to health and yet not
10 in such a manner which will unreasonably affect the competitive market. Further,
11 consumer protection for both health and economic matters shall be afforded the public
12 through legal remedies provided for in this chapter.

13 43-24A-3.
14 As used in this chapter, the term:
15 (1) 'Apprentice' means a person approved by the board to study massage under the
16 instruction of a licensed massage therapist.
17 (2) 'Board' means the Georgia Board of Massage Therapists.
18 (3) 'Board approved massage school' means a facility which meets minimum standards
19 for training and curriculum as determined by rule of the board and which is regulated
20 pursuant to Part 1A of Article 7 of Chapter 3 of Title 20, known as the 'Nonpublic
21 Postsecondary Educational Institutions Act of 1990,' or the equivalent licensing authority
22 of another state or is within the public school system of this state.
23 (4) 'Chair massage or seated massage' means massage performed on site, where no oils
24 are used, and the client is seated upright and remains fully clothed.
25 (5) 'Establishment' means a site or premises, or portion thereof, wherein a massage
26 therapist practices massage. Locations offering on-site massage to their employees or
27 patrons are exempt from obtaining an establishment license.
28 (6) 'Licensure' means the procedure by which a person, otherwise referred to in this
29 chapter as a 'practitioner,' applies to the board for approval to practice massage or to
30 operate an establishment.
31 (7) 'Massage therapist' means a person who is licensed under this chapter and who
32 engages in the practice of massage therapy for compensation.
33 (8) 'Massage therapy' means intentional manipulation of the muscular structure and soft
34 tissues of the human body with the intention of positively affecting the health and well-
35 being of the client.

1 (9) 'On-site massage' means the offering of services at an exempt location other than a
2 massage establishment.

3 43-24A-4.
4 (a) There is created the Georgia Board of Massage Therapists. The board shall be
5 composed of seven members who shall be appointed by the Governor and confirmed by
6 the Senate. To qualify as a member, a person must be a citizen of the United States and
7 have been a resident of this state. Five members must be massage therapists and on and
8 after July 1, 2003, must be massage therapists licensed by the state pursuant to this chapter.
9 Two members shall be appointed from the public at large and shall have no connection
10 whatsoever with the practice or profession of massage therapy.
11 (b) Members shall serve for a term of office of four years and until their respective
12 successors are appointed and qualified. All terms shall expire on January 31 of
13 even-numbered years. In making the initial appointments, the Governor shall appoint four
14 members for initial terms expiring in 2004 and three members for initial terms expiring in
15 2006.
16 (c) Each appointee to the board shall qualify by taking an oath of office within 15 days
17 from the date of his or her appointment. On presentation of the oath, the Secretary of State
18 shall issue commissions to appointees as evidence of their authority to act as members of
19 the board.
20 (d) In the event of death, resignation, or removal of any member, the vacancy of the
21 unexpired term shall be filled by the Governor in the same manner as other appointments.

22 43-24A-5.
23 (a) The board shall elect a chairperson and a vice chairperson from its members for a term
24 of one year and may appoint such committees as it considers necessary to carry out its
25 duties. Such election of a chairperson and vice chairperson shall be held in January of each
26 year.
27 (b) The board shall hold such meetings during the year as it may determine to be
28 necessary. Additional meetings may be held on the call of the chairperson or at the written
29 request of any two members of the board.
30 (c) A quorum shall consist of not less than four members.

31 43-24A-6.
32 The division director shall keep a record of the board's proceedings in a book maintained
33 for that purpose.

1 43-24A-7.
2 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
3 Section 43-1-2.

4 43-24A-8.
5 (a) The board is authorized to promulgate and adopt rules and regulations consistent with
6 this chapter which are necessary for the performance of its duties.
7 (b) The board shall establish license fees and prescribe application forms for license
8 applications.
9 (c) The board shall establish guidelines for massage therapists in the state and the method
10 for examination of applicants for licensure to practice as massage therapists.
11 (d) The board shall adopt an official seal and the form of a license certificate of suitable
12 design.

13 43-24A-9.
14 Each board member shall be held accountable to the Governor for the proper performance
15 of all duties and obligations of such board member's office. The Governor shall cause to
16 be investigated any complaints or unfavorable reports received concerning the actions of
17 the board or its individual members and shall take appropriate action thereon, which may
18 include removal of any board member for malfeasance, misfeasance, neglect of duty,
19 commission of a felony, incompetency, or permanent inability to perform official duties.

20 43-24A-10.
21 (a) Any person is qualified for licensure as a massage therapist under this chapter who:
22 (1) Is at least 18 years of age or has received a high school diploma or general
23 educational development (GED) diploma;
24 (2) Has completed a course of study at a board approved massage school or has
25 completed an apprenticeship program that meets standards adopted by the board; and
26 (3) Has received a passing grade on an examination specified by the board.
27 (b) Every person desiring to be examined for licensure as a massage therapist shall apply
28 to the board in writing upon forms prepared and furnished by the board. Applicants may
29 take an examination administered by the board only upon meeting the requirements of this
30 Code section as determined by the board.
31 (c) Upon an applicant's passing the examination and paying the initial license fee, the
32 board shall issue to the applicant a license, valid until the next scheduled renewal date, to
33 practice massage.
34 (d) The board shall adopt rules:

1 (1) Establishing a minimum training program for apprentices; and
2 (2) Specifying licensing procedures for practitioners desiring to be licensed in this state
3 who hold an active license and have practiced in any other state, territory, or jurisdiction
4 of the United States or any foreign national jurisdiction which has licensing standards
5 substantially similar to, equivalent to, or more stringent than the standards of this state.

6 43-24A-11.
7 The board shall establish continuing education requirements not to exceed 25 classroom
8 hours per biennium. The board shall by rule establish criteria for the approval of continuing
9 education programs or courses. The programs or courses approved by the board may
10 include correspondence courses that meet the criteria for continuing education courses held
11 in a classroom setting.

12 43-24A-12.
13 (a) The board shall specify by rule the general areas of competency to be covered by
14 examinations for licensure. These rules shall include the relative weight assigned in
15 grading each area, the grading criteria to be used by the examiner, and the score necessary
16 to achieve a passing grade. The board shall ensure that examinations adequately measure
17 an applicant's competency. Professional testing services may be utilized to formulate the
18 examinations.
19 (b) The board shall ensure that examinations comply with state and federal equal
20 employment opportunity guidelines.
21 (c) The board shall, in accordance with rules established by the board, examine persons
22 who file applications for licensure under this chapter in all matters pertaining to the
23 practice of massage. A written examination shall be offered at least once yearly and at such
24 other times as the board shall deem necessary.
25 (d) The board shall adopt rules providing for reexamination of applicants who have failed
26 the examination.
27 (e) All licensing examinations shall be conducted in such manner that the applicant shall
28 be known to the board by number until her or his examination is completed and the proper
29 grade determined. An accurate record of each examination shall be made; and that record,
30 together with all examination papers, shall be filed with the division director and shall be
31 kept for reference and inspection for a period of not less than two years immediately
32 following the examination.

33 43-24A-13.
34 The board may require that all applications be made under oath.

1 43-24A-14.
2 (a) No massage establishment shall be allowed to operate without a license granted by the
3 board in accordance with rules adopted by the board.
4 (b) The board shall adopt rules governing the operation of establishments and their
5 facilities, personnel, safety and sanitary requirements, financial responsibility, and
6 insurance coverage and the license application and granting process.
7 (c) Any person, firm, or corporation desiring to operate a massage establishment in the
8 state shall submit to the board an application, upon forms provided by the board,
9 accompanied by any information requested by the board and an application fee.
10 (d) Upon receiving the application, the board may cause an investigation to be made of the
11 proposed massage establishment.
12 (e) If, based upon the application and any necessary investigation, the board determines
13 that the proposed establishment would fail to meet the standards adopted by the board
14 under subsection (b) of this Code section, the board shall deny the application for license.
15 Such denial shall be in writing and shall list the reasons for denial. Upon correction of any
16 deficiencies, an applicant previously denied permission to operate a massage establishment
17 may reapply for licensure.
18 (f) If, based upon the application and any necessary investigation, the board determines
19 that the proposed massage establishment may reasonably be expected to meet the standards
20 adopted by the board under subsection (b) of this Code section, the board shall grant the
21 license under such restrictions as it shall deem proper as soon as the original licensing fee
22 is paid.
23 (g)(1) Once issued, no license for operation of a massage establishment may be
24 transferred from one owner to another.
25 (2) A license may be transferred from one location to another only after inspection and
26 approval by the board and receipt of an application and inspection fee set by rule of the
27 board.
28 (3) A license may be transferred from one business name to another after approval by the
29 board and receipt of an application fee set by rule of the board.
30 (h) Renewal of license registration for massage establishments shall be accomplished
31 pursuant to rules adopted by the board. The board is further authorized to adopt rules
32 governing delinquent renewal of licenses and may impose penalty fees for delinquent
33 renewal.
34 (i) The board is authorized to adopt rules governing the periodic inspection of massage
35 establishments licensed under this chapter.

1 43-24A-15.
2 The board is authorized to set fees as provided in Code Section 43-1-7.

3 43-24A-16.
4 (a) The following acts shall constitute grounds for which disciplinary actions specified in
5 subsection (b) of this Code section may be taken against a massage therapist or massage
6 establishment licensed under this chapter:
7 (1) Attempting to procure a license to practice massage by bribery or fraudulent
8 misrepresentation;
9 (2) Having a license to practice massage revoked, suspended, or otherwise acted against,
10 including the denial of licensure, by the licensing authority of another state, territory, or
11 country;
12 (3) Being convicted or found guilty, regardless of adjudication, of a crime in any
13 jurisdiction which directly relates to the practice of massage or to the ability to practice
14 massage. Any plea of nolo contendere shall be considered a conviction for purposes of
15 this chapter;
16 (4) False, deceptive, or misleading advertising;
17 (5) Aiding, assisting, procuring, or advising any unlicensed person to practice massage
18 contrary to the provisions of this chapter or to a rule of the board;
19 (6) Making deceptive, untrue, or fraudulent representations in the practice of massage;
20 (7) Being unable to practice massage with reasonable skill and safety by reason of illness
21 or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result
22 of any mental or physical condition. In enforcing this paragraph, the board shall have,
23 upon probable cause, authority to compel a massage therapist to submit to a mental or
24 physical examination by physicians designated by the board. Failure of a massage
25 therapist to submit to such examination when so directed, unless the failure was due to
26 circumstances beyond her or his control, shall constitute an admission of the allegations
27 against her or him, consequent upon which a default and final order may be entered
28 without the taking of testimony or presentation of evidence. A massage therapist affected
29 under this paragraph shall at reasonable intervals be afforded an opportunity to
30 demonstrate that he or she can resume the competent practice of massage with reasonable
31 skill and safety to clients;
32 (8) Gross or repeated malpractice or the failure to practice massage with that level of
33 care, skill, and treatment which is recognized by a reasonably prudent massage therapist
34 as being acceptable under similar conditions and circumstances;

(9) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;

(10) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform;

(11) Violating any provision of this chapter, a rule of the board, or a lawful order of the board previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board;

(12) Refusing to permit the board or its agents to inspect the business premises of the licensee during regular business hours;

(13) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition; or

(14) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.

(b) When the board finds any person guilty of any of the grounds set forth in subsection (a) of this Code section, it may enter an order imposing one or more of the following penalties:

(1) Refusal to license an applicant;

(2) Revocation or suspension of a license;

(3) Issuance of a reprimand or censure; or

(4) Imposition of an administrative fine not to exceed $1,000.00 for each count or separate offense.

(c) The board shall have the power to revoke or suspend the license of a massage establishment licensed under this chapter, or to deny subsequent licensure of such an establishment, in either of the following cases:

(1) Upon proof that a license has been obtained by fraud or misrepresentation; or

(2) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.

(d) Disciplinary proceedings shall be conducted pursuant to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' or any other applicable law of this state.

1 43-24A-17.
2 (a) A massage therapist's license issued by the board is the property of the board and shall
3 be surrendered on demand of the board.
4 (b) Each massage therapist licensed by the board shall display his or her license certificate
5 in a conspicuous manner at his or her place of business. Each massage therapist licensed
6 by the board shall include the number of his or her license in any advertisement of massage
7 services appearing in any newspaper, telephone directory, or other advertising medium.
8 (c) A massage therapist licensee shall inform the board of any change of his or her address.

9 43-24A-18.
10 (a) It is a misdemeanor for any person, including a person who is exempt by Code Section
11 43-24A-20 from this chapter, to advertise with or without any limiting qualifications as a
12 massage therapist unless the person holds a valid license under this chapter. It shall be a
13 violation of this chapter for any person to advertise:
14 (1) As a massage therapist or a massage therapy establishment unless the person holds
15 a valid license under this chapter in the classification so advertised;
16 (2) By combining advertising for a licensed massage therapy service with escort or
17 dating services;
18 (3) As performing massage in a form in which the person has not received training, or
19 of a type which is not licensed or otherwise recognized by statute or administrative rule;
20 (4) By using in any mass distribution, print advertisements such as newspaper
21 advertisements, or telephone directory listings, pictures depicting the human form other
22 than hands, wrists, and forearms;
23 (5) By using any term other than therapeutic massage or massage therapy to refer to the
24 service; or
25 (6) By referring to any personal physical qualities of the practitioner.
26 As used in this Code section, the term 'advertise' includes, but is not limited to, the issuance
27 of any card, sign, or device to any person; the causing, permitting, or allowing of any sign
28 or marking on or in any building, vehicle, or structure; advertising in any newspaper or
29 magazine; any listing or advertising in any directory under a classification or heading that
30 includes the word 'massage'; or commercials broadcast by airwave transmission.
31 (b) A massage therapist or massage therapy establishment may advertise in print or
32 broadcast medium, as defined in subsection (a) of this Code section, only if the massage
33 therapist or massage therapy establishment includes in the advertisement or listing the
34 massage therapist's or massage therapy establishment's applicable and current license
35 number, and provides written evidence of the number's validity to the publisher or
36 producer of the advertising medium. The publisher or producer of a print or broadcast

1 advertising medium shall refuse to publish or broadcast an advertisement or listing for a
2 massage therapist or massage therapy establishment that does not comply with the
3 provisions of this subsection. A publisher or producer who obtains a signed statement from
4 the massage therapist or massage therapy establishment which states that the massage
5 therapist or the massage therapy establishment has read the text of the advertisement or
6 listing, has an applicable and current massage therapist or massage therapy establishment
7 license for the services advertised, has included all applicable and current license numbers
8 in the advertisement or listing, and is aware of civil and criminal penalties for advertising
9 as a massage therapist or massage therapy establishment without a valid license, shall be
10 entitled to a refutable presumption of compliance with this subsection.
11 (c) A publisher or producer of a print or broadcast advertising medium shall not be liable
12 in any suit, action, or claim arising from refusal to list or accept advertisements pursuant
13 to subsection (b) of this Code section.

14 43-24A-19.
15 (a) It is unlawful for any person to:
16 (1) Hold himself or herself out as a massage therapist or to practice massage unless duly
17 licensed under this chapter or unless otherwise specifically exempted from licensure
18 under this chapter;
19 (2) Operate any massage establishment unless it has been duly licensed as provided in
20 this chapter, except that nothing in this chapter shall be construed to prevent the teaching
21 of massage in this state at a board approved massage school;
22 (3) Permit an employed person to practice massage unless duly licensed as provided in
23 this chapter;
24 (4) Present as his or her own the license of another;
25 (5) Allow the use of his or her license by an unlicensed person;
26 (6) Give false or forged evidence to the board in obtaining any license provided for in
27 this chapter;
28 (7) Falsely impersonate any other licenseholder of like or different name;
29 (8) Use or attempt to use a license that has been revoked; or
30 (9) Otherwise violate any of the provisions of this chapter.
31 (b) Any person violating the provisions of this Code section shall be guilty of a
32 misdemeanor.

33 43-24-20.
34 (a) An exemption under this chapter is effective only to the extent that the bona fide
35 practice of the profession or business that is licensed, certified, or registered under the laws

1 of this state overlaps into the field comprehended by this chapter, and exemptions under
2 this chapter are only for those activities which are performed in the course of the bona fide
3 practice of the business or profession of the person exempted.
4 (b) Persons licensed to practice any branch of medicine, nursing, osteopathy, chiropractic,
5 or podiatry and barbers, cosmetologists, estheticians, athletic trainers, and physical and
6 occupational therapists are exempt from the provisions of this chapter.
7 (c) Any student of a board authorized massage school or public school of this state
8 provided the student does not hold himself or herself out as a licensed massage therapist
9 and does not receive compensation for massage is exempt from the provisions of this
10 chapter.
11 (d) Exempt bodywork methods include those that involve energy techniques only, without
12 intentional soft tissue manipulation of any kind; movement education or reeducation; and
13 somatic education addressing awareness, posture, and action by verbally and physically
14 guiding the student in the discovery of existing and alternative postures and actions.
15 Specific modalities included in this exemption may be Zen Therapy, Rolfing, Alexander
16 Technique, Reiki, Polarity, Feldenkrais, Trager, Shiatsu, Jin Shin Jyutsu, and Therapeutic
17 Touch.
18 (e) The following persons shall be exempt from the provisions of this chapter: persons who
19 restrict their manipulation of the soft tissues of the human body to the hands, feet, or ears;
20 persons who manipulate the human body above the neck, below the elbow, and below the
21 knee and do not disrobe the client in performing such manipulation; persons practicing the
22 healing arts with the primary purpose of their modality or practice recognized as treatment
23 of the energetic system of the body rather than treatment for the tonus system of the body
24 and who may incidentally contact or manipulate soft tissue within the practice of their
25 profession; and persons who use touch and verbal communication to deepen awareness of
26 existing patterns of movement in the human body, as well as to suggest new possibilities
27 for movement, and who may incidentally contact or manipulate soft tissue within the
28 practice of their profession.
29 (f) Nothing in this chapter shall apply to massage therapists licensed in other states or
30 countries or meeting standards set forth when providing educational programs or services
31 for a period of time not to exceed 30 days within a calendar year.

32 43-24A-21.
33 The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct
34 in the practice of massage therapy means violation of the massage therapist-patient
35 relationship through which the massage therapist uses that relationship to induce or attempt
36 to induce the patient to engage, or to engage or attempt to engage the patient, in sexual

1 activity outside the scope of practice or the scope of generally accepted examination or
2 treatment of the patient. Sexual misconduct in the practice of massage therapy is
3 prohibited. A client shall be presumed to be incapable of giving free, full, and informed
4 consent to sexual activity with his or her massage therapist.

5 43-24A-22.
6 As cumulative to any other remedy or criminal prosecution, the board or the division
7 director may file a proceeding in the name of the state seeking issuance of a restraining
8 order, injunction, or writ of mandamus against any person who is or has been violating any
9 of the provisions of this chapter or the lawful rules or orders of the board.

10 43-24A-23.
11 A county or municipality, within its jurisdiction, may regulate persons and establishments
12 licensed under this chapter. Such regulation shall not exceed the powers of the state under
13 this chapter or be inconsistent with this chapter. This Code section shall not be construed
14 to prohibit a county or municipality from enacting any regulation of persons or
15 establishments not licensed pursuant to this chapter. No provision of any ordinance enacted
16 by a city or county that is in effect before July 1, 2002, and that relates to the practice of
17 massage therapy may be enforced against a person who is issued a license by the board
18 under this chapter."

19 **SECTION 2.**
20 This Act shall become effective on July 1, 2002.

21 **SECTION 3.**
22 All laws and parts of laws in conflict with this Act are repealed.

APPENDIX C

RELATED CRIMINAL STATUTES

16-6-9. Prostitution.

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy, for money or other items of value.

16-6-10. Keeping a place of prostitution.

A person having or exercising control over the use of any place or conveyance which would offer seclusion or shelter for the practice of prostitution commits the offense of keeping a place of prostitution when he knowingly grants or permits the use of such place for the purpose of prostitution.

16-6-13. Penalties for violating Code Sections 16-6-9 through 16-6-12.

(a) Except as otherwise provided in subsection (b) of this Code section, a person convicted of any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12 shall be punished as for a misdemeanor of a high and aggravated nature. A person convicted of the offense enumerated in Code Section 16-6-9 shall be punished as for a misdemeanor.
(b) A person convicted of pimping or pandering when such offense involves the pimping for or the solicitation of a person under the age of 18 years to perform an act of prostitution or the assembly of two or more persons under the age of 18 years at a fixed place for the purpose of being solicited by others to perform an act of prostitution shall be guilty of a felony and shall be punished by imprisonment for a period of not less than five nor more than 20 years and such convicted person shall be fined not less than $2,500.00 nor more than $10,000.00. Adjudication of guilt or imposition of a sentence for a conviction of a second or subsequent offense of pimping or pandering involving a person under the age of 18 years pursuant to this subsection, including a plea of nolo contendere, shall not be suspended, probated, deferred, or withheld.
(c) (1) The clerk of the court in which a person is convicted of pandering shall cause to be published a notice of conviction for each such person convicted. Such notices of conviction shall be published in the manner of legal notices in the legal organ of the county in which such person resides or, in the case of nonresidents, in the legal organ of the county in which the person was convicted. Such notice of conviction shall be one column wide by two inches long and shall contain the photograph taken by the arresting law enforcement agency at the time of arrest, name, and address of the convicted person and the date, time, place of arrest, and disposition of the case and shall be published once in the legal organ of the appropriate county in the second week following such conviction or as soon thereafter as publication may be made.

(c) (2) The convicted person for which a notice of conviction is published pursuant to this subsection shall be assessed the cost of publication of such notice and such assessment shall be imposed at the time of conviction in addition to any other fine imposed pursuant to this Code section.
(c) (3) The clerk of the court, the publisher of any legal organ which publishes a notice of conviction, and any other person involved in the publication of an erroneous notice of conviction shall be immune from civil or criminal liability for such erroneous publication, provided such publication was made in good faith.
(d) In addition to any other penalty authorized under subsections (a) and (b) of this Code section, a person convicted of an offense enumerated in Code Sections 16-6-9 through 16-6-12 shall be fined $2,500.00 if such offense was committed within 1,000 feet of any school building, school grounds, public place of worship, or playground or recreation center which is used primarily by persons under the age of 17 years.

16-6-17. Giving massages in place used for lewdness, prostitution, assignation, or masturbation for hire.

(a) It shall be unlawful for any masseur or masseuse to massage any person in any building, structure, or place used for the purpose of lewdness, assignation, prostitution, or masturbation for hire.
(b) As used in this Code section, the term:
(b) (1) "Masseur" means a male who practices massage or physiotherapy, or both.
(b) (2) "Masseuse" means a female who practices massage or physiotherapy, or both.
(c) Any person who violates this Code section shall be guilty of a misdemeanor.

16-6-22.1. Sexual battery.

(a) For the purposes of this Code section, the term "intimate parts" means the primary genital area, anus, groin, inner thighs, or buttocks of a male of female and the breasts of a female.
(b) A person commits the offense of sexual battery when he intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.
(c) A person convicted of the offense of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.

APPENDIX D

CODE OF ETHICS

National Certification Board for Therapeutic Massage and Bodywork

Code of Ethics

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The Code of Ethics of the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) requires certificants to uphold professional standards that allow for the proper discharge of their responsibilities to those served, that protect the integrity of the profession, and that safeguard the interest of individual clients.

Those practitioners who have been awarded national certification by the NCBTMB will:

- Have a sincere commitment to provide the highest quality of care to those that seek their professional services.
- Represent their qualifications honestly, including their educational achievements and professional affiliations, and will provide only those services which they are qualified to perform.
- Accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline.
- Acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals.
- Provide treatment only where there is reasonable expectation that it will be advantageous to the client.
- Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training.
- Conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons.
- Refuse to unjustly discriminate against clients or other health professionals.
- Safeguard the confidentiality of all client information, unless disclosure is required by law, court order, or is absolutely necessary for the protection of the public.
- Respect the client's right to treatment with informed and voluntary consent. The NCTMB practitioner will obtain and record the informed consent of the client, or client's advocate, before providing treatment. This consent may be written or verbal.
- Respect the client's right to refuse, modify, or terminate treatment regardless of prior consent given.
- Provide draping and treatment in a way that ensures the safety, comfort and privacy of the client.
- Exercise the right to refuse to treat any person or part of the body for just and reasonable cause.
- Refrain, under all circumstances, from initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship.
- Avoid any interest, activity or influence which might be in conflict with the practitioner's obligation to act in the best interests of the client or the profession.
- Respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and the client's reasonable expectations of professional behavior. Practitioners will respect the client's autonomy.
- Refuse any gifts or benefits which are intended to influence a referral, decision or treatment that are purely for personal gain and not for the good of the client.
- Follow all policies, procedures, guidelines, regulations, codes, and requirements promulgated by the National Certification Board for Therapeutic Massage and Bodywork.

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APPENDIX E

CODE OF ETHICS

American Massage Therapy Association

American Massage Therapy Association® Code of Ethics

This Code of Ethics is a summary statement of the standards by which massage therapists agree to conduct their practices and is a declaration of the general principles of acceptable, ethical, professional behavior.

Massage therapists shall:

1. Demonstrate commitment to provide the highest quality massage therapy/bodywork to those who seek their professional service.
2. Acknowledge the inherent worth and individuality of each person by not discriminating or behaving in any prejudicial manner with clients and/or colleagues.
3. Demonstrate professional excellence through regular self-assessment of strengths, limitations, and effectiveness by continued education and training.
4. Acknowledge the confidential nature of the professional relationship with clients and respect each client's right to privacy.
5. Conduct all business and professional activities within their scope of practice, the law of the land, and project a professional image.
6. Refrain from engaging in any sexual conduct or sexual activities involving their clients.
7. Accept responsibility to do no harm to the physical, mental and emotional well-being of self, clients, and associates.

medical

APPENDIX F

CODE OF ETHICS

Associated Bodywork and Massage Professionals

About ABMP

Professional Code of Ethics

As a member of Associated Bodywork & Massage Professionals, I hereby pledge to abide by the ABMP Code of Ethics as outlined below.

Client Relationships

• I shall endeavor to serve the best interests of my clients at all times and to provide the highest quality service possible.

• I shall maintain clear and honest communications with my clients and shall keep client communications confidential.

• I shall acknowledge the limitations of my skills and, when necessary, refer clients to the appropriate qualified health care professional.

• I shall in no way instigate or tolerate any kind of sexual advance while acting in the capacity of a massage, bodywork, somatic therapy or esthetic practitioner.

Professionalism

• I shall maintain the highest standards of professional conduct, providing services in an ethical and professional manner in relation to my clientele, business associates, health care professionals, and the general public.

• I shall respect the rights of all ethical practitioners and will cooperate with all health care professionals in a friendly and professional manner.

• I shall refrain from the use of any mind-altering drugs, alcohol, or intoxicants prior to or during professional sessions.

• I shall always dress in a professional manner, proper dress being defined as attire suitable and consistent with accepted business and professional practice.

• I shall not be affiliated with or employed by any business that utilizes any form of sexual suggestiveness or explicit sexuality in its advertising or promotion of services, or in the actual practice of its services.

Scope of Practice / Appropriate Techniques

• I shall provide services within the scope of the ABMP definition of massage, bodywork, somatic therapies and skin care, and the limits of my training. I will not employ those massage, bodywork or skin care techniques for which I have not had adequate training and shall represent my education, training, qualifications and abilities honestly.

• I shall be conscious of the intent of the services that I am providing and shall be aware of and practice good judgment regarding the

application of massage, bodywork or somatic techniques utilized.

• I shall not perform manipulations or adjustments of the human skeletal structure, diagnose, prescribe or provide any other service, procedure or therapy which requires a license to practice chiropractic, osteopathy, physical therapy, podiatry, orthopedics, psychotherapy, acupuncture, dermatology, cosmetology, or any other profession or branch of medicine unless specifically licensed to do so.

• I shall be thoroughly educated and understand the physiological effects of the specific massage, bodywork, somatic or skin care techniques utilized in order to determine whether such application is contraindicated and/or to determine the most beneficial techniques to apply to a given individual. I shall not apply massage, bodywork, somatic or skin care techniques in those cases where they may be contraindicated without a written referral from the client's primary care provider.

Image / Advertising Claims

• I shall strive to project a professional image for myself, my business or place of employment, and the profession in general.

• I shall actively participate in educating the public regarding the actual benefits of massage, bodywork, somatic therapies and skin care.

• I shall practice honesty in advertising, promote my services ethically and in good taste, and practice and/or advertise only those techniques for which I have received adequate training and/or certification. I shall not make false claims regarding the potential benefits of the techniques rendered.

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APPENDIX G

REGULATION OF MASSAGE THERAPISTS IN OTHER STATES

APPENDIX G

Regulation of Massage Therapists in Other States

State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
Alabama	Massage Therapist	License	Two years	Application fee: $25 License fee: $100	The applicant must have successfully completed the academic requirements in addition to passing National Certification Examination for Therapeutic Massage and Bodywork or any other national or international accredited exam approved by Board prior to January 1, 1998.	Not available	Alabama Board of Massage Therapy	Is required for bi-annual renewal
Arkansas	Massage Therapist	License	One year	Registration: $75 Exam: $25	500 hours from an accredited massage therapy school or similar institution.	1951	Arkansas State Board of Massage Therapy	6 hours per year (by June 30) approved by Board
Connecticut	Massage Therapist	License	One year	Application: $300 Annual renewal: $100	500 hours from a school accredited by an accrediting agency and a curriculum approved by COMTA.	1993	Connecticut Massage Therapy Licensure Department of Public Health	No continuing education requirements
Delaware	Massage Therapist	License	Two years	Application: $25 Licensing: $69 for 2 years	100 hours: certified massage technician; 500 hours: licensed massage therapist; 500 hours of supervised study; 100 hours of anatomy and physiology; 300 hours of technique and theory; 100 hours of electives; CPR required.	1993	Delaware Board of Massage and Bodywork	12 hours every 2 years for technician; 24 hours for therapists

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Regulation of Massage Therapists in Other States

State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
District of Columbia	Massage Therapist	License	Not available	N/A	Minimum 500 hours of training.	1999	District of Columbia Massage Therapy Board	N/A
Florida	Massage Therapist	License	Two years	$50 application fee & $100 initial license	18 years of age or has received a high school diploma or G.E.D..; completed course of study at Board approved massage therapy school licensed by Florida Department of Education or equivalent licensing authority in another state, or is within Florida public school system (minimum of 500 classroom hours) or completed Board-approved apprenticeship program; proof of passing National Certification Examination for Therapeutic Massage and Bodywork; and completion of three (3) hour Board approved educational course on HIV/AIDS.	1943	Florida Board of Massage Therapy	Each licensed massage therapist must complete 20 hours of continuing education each biennium.
Hawaii	Massage Therapist	License	Two years	$50 application fee, $50 license fee	Completion of 570 hours of study and practical training from licensed institution.	1947	Hawaii Board of Massage Therapy	Not available
Iowa	Massage Therapist	License	Two years	Application for license: $100	Minimum high school diploma. Completion of curriculum of massage education at licensed or accredited school approved by Department, including at least 500 hours of supervised instruction, of which 100 must be in anatomy and physiology. Must also possess knowledge of cardiopulmonary resuscitation.	1992	The Iowa Board of Examiners for Massage Therapy	Required to complete during each continuing education compliance period minimum of 12 hours of continuing education approved by Board. Compliance with requirement of continuing education is prerequisite for license renewal for each subsequent license renewal period.

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Regulation of Massage Therapists in Other States

State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
Louisiana	Massage Therapist	License	One year	Oral exam: $75 Professional license: $50	500 hours supervised course of instruction at an approved school.	1992	Louisiana Board of Massage Therapists	12 hours per year
Maine	Massage Therapist	License	One year	Application fee: $25 License fee: $100	Must be 18 years old or older; provide copy of high school diploma or its equivalent; provide one (1) 5" x 3" photograph; and provide copy of certificate of completion of national examination for therapeutic massage and bodywork or provide transcript that outlines course of training consisting of 500 hours from program accredited or approved by COMTA.	1991	Department of Professional and Financial Regulation	Not available
Maryland	Message Therapist	Certification	Not available	Application: $100 Certificate: $200	500 hours that include anatomy and physiology, massage therapy techniques and practice contraindications for massage therapy.	1998	Maryland Board of Chiropractic Examiners	Not available

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Regulation of Massage Therapists in Other States

State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
Mississippi	Massage Therapist	Not available	Not available	Not available	Shall be at least 18 with high school diploma or equivalent, applicant must complete board-approved training program of not less than six hundred (600) hours of supervised in-class massage therapy instruction, and at least one hundred (100) hours of student clinic, with minimum grade requirement of "C" or better in every course of instruction.	2001	Mississippi State Board of Massage Therapy	Not available
Missouri	Massage Therapist	License	Two years	License fee: $130	Shall be at least 18; has passed statistically valid examination on therapeutic massage and bodywork which is approved by Board; completion of massage therapy studies consisting of at least 500 hours of supervised instruction--300 hours dedicated to massage theory and practice techniques, 100 hours to study of anatomy and physiology, 50 hours to business practice, professional ethics, hygiene and massage law in state of Missouri, and 50 hours dedicated to ancillary therapies, including CPR and first aid.	1998	Missouri State Board of Therapeutic Massage	Not available
Nebraska	Massage Therapist	License	Two years	Initial license examination: $136 Renewal: $302 biennially	Must be at least 19 years of age, of good moral character, present satisfactory evidence indicating Nebraska residency, present proof of graduation from an approved massage therapy school with minimum of 1000 hours of instruction.	1958	Mental Health and Consumer Services Section, Regulation and Licensure Division	18 hours of continuing education required every 2 years
New Hampshire	Massage Practitioner	License	Two years	Initial license: $125 (includes state test) Renewals: $100	High school diploma or GED plus graduation from school of massage; 750 hours: 150 hours of anatomy and physiology; 50 hours of massage; 50 hours of hydrotherapy; 175 hours of Swedish and related modalities; 10 hours of rules and ethics; 50 hours of allied massage techniques; 50 hours of hygiene; 25 hours of health services management; 125 hours of practical massage; 65 hours of electives; CPR certification also required.	1980	New Hampshire Office of Program Support Health Facilities Administration	12 hours every 2 years should increase with next 6 months to 24 hours

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Regulation of Massage Therapists in Other States

State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
New Jersey	Massage Therapist	Certification	Not available	Not available	500 hours or NCE.	1999	New Jersey Board of Nursing	Not available
New Mexico	Massage Therapist	License	Two years	Application fee: $25 Initial license fee: $150 assessed when Jurisprudence exam is mailed to applicant	Must be at least 18 years of age; has completed all educational requirements established by Board; has completed at least 650 in length that includes at least 500 hours of massage therapy instruction.	1991	New Mexico Massage Therapy Board	16 hours of approved continued education approved by Board every 2 years
New York	Massage Therapist	License	Not available	Application/initial registration: $100	High school graduate. Graduate of New York school program or equivalent program; 1000 hours: 100 pathology, 200 miology, 60 first aid/cpr, 150 oriental/western theory (50 in each), 325 theory & practice (including 150 w/patient).	1967	NY State Board for Massage Therapy	Not available
North Carolina	Massage Therapist	License	Two years	Licensure fee: $150	Successfully completed course of study in field of massage and bodywork therapy consisting of minimum of 500 classroom hours of supervised instruction at Board-approved school, and passed National Certification Examination in Therapeutic Massage and Bodywork (NCE) and are certificant in good standing with National Certification Board for Therapeutic Massage and Bodywork (NCBTMB),	1999	North Carolina Board of Massage and Bodywork Therapy	Not available

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State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
North Dakota	Massage Therapist	License	One year	License fee: $150	Must be at least 18 years of age; high school graduate; bona fide resident of North Dakota; be of good moral character; presents diploma or credentials issued by school of massage that meet standards set by Board, requiring at least 750 hours of supervised instruction.	1959	North Dakota State Board of Massage	18 hours per year
Ohio	Massage Therapist	License	Two years	Application: $250 Exam: $250	Certification of high school graduation; 600 hours over 12 months from an approved school.	1916	State Medical Board	Not required
Oregon	Massage Therapist	License	Two years	Application: $40 Exam: $60 written, $100 practical	500 hours effective January 1, 1999.	1999	Oregon Board of Massage Technicians	12 hours every 2 years
Rhode Island	Massage Therapist	License	One year	License fee: $50	Must be at least 18 years of age; of good moral character; graduate of an approved institution of massage therapy including curriculum with at least 500 cumulative hours in several programs stipulated by Board; examined physically for the detection of contagious disease.	1979	Advisory Board of Massage Therapy within the Rhode Island Division of Professional Regulation	Not available
South Carolina	Massage Therapist	License	Two years	Application fee: $50 Initial licensure fee: $100	Be at least 18 years of age and have received high school diploma or graduate equivalency diploma; have completed 500 hour course of supervised study at an approved massage school;	1976	SC Board of Massage/Bodywork Therapy	Continuing education is required

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State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
Tennessee	Massage Therapist	License	Two years	Licensure fee: $335	Licensed either through (1) certification from National Certification Board of Therapeutic Massage and Bodywork, (2) endorsement from another state, or (3) successful completion of course of study of not less than 500 hours from an approved institution.	1995	Tennessee Massage Licensure Board	12.5 hours of massage therapy continuing education is required per year
Texas	Massage Therapist	License	One year	Application fee: $53 Exam fee: $75	Completion of minimum 300-hour supervised course of instruction in stipulated massage studies provided by registered massage therapy instructor, registered massage school, state approved education institution, or combination of any of these in following	1985	Texas Board of Health	6 hours per year of continuing education required
Utah	Massage Therapist	License	Two years	Application fee: $50	Graduation from an apprenticeship program, IMF or COMTA accredited or approved training program or NCETMB certification or 1,000 hours over 12 months.	1981	Occupational Therapy Licensing Board	Not available
Virginia	Massage Therapist	Certification	Two years	Application: $40 Bi-annual renewal fee: $50	500 hours.	1996	Virginia Board of Nursing	Not available

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State	Occupational Title	Regulatory Method	License Duration	Licensure Fees	Requirements	Initial Year Licensed	Regulatory Board	Continued Education
Washington	Massage Practitioner	License	Two years	License: $55 Exam: $150 Annual renewal fee: $40	Board approved program 500 hours: 120 hours anatomy, physiology, kinesiology; 50 hours pathology; 265 hours theory and practice of massage; 55 hours of clinic/business practices.	1976	State of Washington Department of Health	16 hours every 2 years
West Virgina	Massage Therapist	License	Two years	Application fee: $25 Initial licensing fee: $200	Graduation from COMTA-approved or state approved school.	1998	West Virginia Massage Therapy Licensure Board	25 hours of continuing education units
Wisconsin	Massage Therapist or Bodyworker	Registration	Two years	Application/initial licensure fee: $83	An individual applying for registration as massage therapist or bodyworker on or after March 1, 2000, shall submit evidence satisfactory to department that he has completed at least 600 classroom hours of study in course of instruction at an approved school of massage therapy or bodywork; has in effect malpractice liability insurance coverage in an amount that is not less than $1,000,000 per occurrence and $1,000,000 for all occurrences in one (1) year.	1999	Bureau of Health Professions - Massage Therapy	No continuing education requirements