

CHAPTER 443

[Engrossed Substitute Senate Bill No. 5299]

MASSAGE THERAPY

AN ACT Relating to massage therapy; amending RCW 18.108.010, 18.108.030, 18.108.040, 18.108.050, 18.108.060, and 18.108.070; reenacting and amending RCW 18.108.020; adding new sections to chapter 18.108 RCW; repealing RCW 18.108.090, 18.108.110, 18.108.120, 18.108.140, 18.108.150, 18.108.160, 18.108.180, 18.108.200, and 18.108.210; making an appropriation; and providing effective dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds it necessary to license the practice of massage and massage therapy in order to protect the public health and safety. It is the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide services to the public. This chapter shall not be construed to require or prohibit individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization from providing benefits or coverage for services and supplies provided by a person registered or certified under this chapter.

*Sec. 2. Section 1, chapter 280, Laws of 1975 1st ex. sess. as amended by section 74, chapter 158, Laws of 1979 and RCW 18.108.010 are each amended to read as follows:

In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Board" means the ~~((state massage examining board;))~~ Washington state board of massage.

(2) "Massage" and "massage therapy" mean ~~((s the treatment of the superficial parts of the body, with or without the aid of soaps, oils, or lotions, by rubbing, touching, stroking, tapping, and kneading, provided no attempt be made to adjust or manipulate the articulations of the spine;))~~ a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes massage techniques such as methods of effleurage, petrissage, tapotement, tapping, compressions, vibration, friction, nerve strokes, and Swedish gymnastics or movements either by manual means, as they relate to massage, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force.

(3) "Massage ~~((operator))~~ practitioner" means ~~((a person engaged in the practice of massage;))~~ an individual licensed under this chapter.

(4) "Director" means the director of licensing or the director's designee.

~~(5) (Message business means the operation of a business where massages are given.) "Department" means the department of licensing.~~

*Sec. 2 was partially vetoed, see message at end of chapter.

Sec. 3. Section 3, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.030 are each amended to read as follows:

~~(1) No person (shall engage in, or hold themselves out as engaged in the practice of massage without a massage operator's license issued by the director) may practice or represent himself or herself as a massage practitioner without first applying for and receiving from the department a license to practice.~~

(2) A person represents himself or herself as a massage practitioner when the person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist, accupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method.

Sec. 4. Section 4, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.040 are each amended to read as follows:

It shall be unlawful to advertise the practice of massage ((by a person not licensed by the director)) using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the director as a massage practitioner. Any person who holds a license to practice as a massage practitioner in this state may use the title "licensed massage practitioner" and the abbreviation "L.M.P.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage practitioner.

Sec. 5. Section 5, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.050 are each amended to read as follows:

This chapter does not apply to:

(1) An individual giving massage ((in their home)) to members of ((their)) his or her immediate family;

(2) ~~((Persons licensed in this state to practice medicine, surgery, drugless therapy, cosmetology, barbering, physical therapy, osteopathy, osteopathy and surgery, chiropractic, podiatry, nursing, or persons working under prescription, supervision, or direction of any such person))~~ The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;

(3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;

(4) Massage practiced at the athletic department of any school or college (~~accredited by the northwest association of secondary and higher schools~~) approved by the department by rule using recognized national professional standards.

Sec. 6. Section 6, chapter 280, Laws of 1975 1st ex. sess. as amended by section 79, chapter 7, Laws of 1985 and RCW 18.108.060 are each amended to read as follows:

All licenses issued under the provisions of this chapter, unless otherwise provided shall expire on the annual anniversary date of the individual's date of birth.

~~((Failure to pay the annual license renewal fee by the dates specified above shall render the license invalid, but such license may be reinstated upon written application therefor to the director, and payment to the state of a penalty of ten dollars together with all delinquent annual license renewal fees.))~~

The director shall prorate the licensing fee for massage (~~operator~~) practitioner based on one-twelfth of the annual license fee for each full calendar month between the issue date and the next anniversary of the applicant's birth date, a date used as the expiration date of such license.

Every applicant for a license shall pay an examination fee determined by the director as provided in RCW 43.24.086, which fee shall accompany their application. Applications for licensure shall be submitted on forms provided by the director.

Applicants granted a license under this chapter shall pay to the director a license fee determined by the director as provided in RCW 43.24.086, prior to the issuance of their license, and an annual renewal fee determined by the director as provided in RCW 43.24.086. Failure to renew shall invalidate the license and all privileges granted to the licensee, but such license may be reinstated upon written application to the director and payment to the state of all delinquent fees and penalties as determined by the director. In the event a license has lapsed for a period longer than three years, the licensee shall demonstrate competence to the satisfaction of the director by proof of continuing education or other standard determined by the director with the advice of the board.

Sec. 7. Section 7, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.070 are each amended to read as follows:

The director shall ~~((approve issuance of))~~ issue a massage (~~operator~~) practitioner's license to ~~((any))~~ an applicant who ~~((is eighteen years of age or over and who has furnished satisfactory proof of their good character and health and who also has passed a written or oral examination and/or practical demonstration, prepared and conducted by the board establishing their~~

~~competency and ability to engage in the practice of massage. The examinations shall require the applicant to demonstrate a basic knowledge of anatomy, physiology, hygiene, first aid, and such other subjects as the examining board may determine. PROVIDED, That the board shall give an appropriate alternate form of examination for persons who cannot read or speak English to determine equivalent competency)) demonstrates to the director's satisfaction that the following requirements have been met:~~

(1) Effective June 1, 1988, successful completion of a course of study in an approved massage program or approved apprenticeship program;

(2) Successful completion of an examination administered or approved by the board; and

(3) Be eighteen years of age or older.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The director shall establish by rule what constitutes adequate proof of meeting the criteria. The board shall give an appropriate alternate form of examination for persons who cannot read or speak English to determine equivalent competency.

NEW SECTION. Sec. 8. (1) The date and location of the examination shall be established by the director. Applicants who demonstrate to the director's satisfaction that the following requirements have been met shall be scheduled for the next examination following the filing of the application:

(a) Effective June 1, 1988, successful completion of a course of study in an approved massage program; or

(b) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and

(c) Be eighteen years of age or older.

In addition, completed and approved applications shall be received sixty days before the scheduled examination.

(2) The board or its designee shall examine each applicant in a written and practical examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of examinations, and the grading of any practical work, shall be preserved for a period of not less

than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the director.

(4) An applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the director as provided in RCW 43.24.086. Upon failure of three examinations, the director may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by an applicant in meeting the licensing requirement.

Sec. 9. Section 2, chapter 280, Laws of 1975 1st ex. sess. as last amended by section 56, chapter 279, Laws of 1984 and by section 53, chapter 287, Laws of 1984 and RCW 18.108.020 are each reenacted and amended to read as follows:

The Washington state board of massage (~~(examining board)~~) is hereby created. The board shall consist of (~~(three)~~) four members who shall be appointed by the governor for a term of (~~(three)~~) four years each. Members shall be residents of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be licensed under this chapter and actively engaged in the practice of massage during their incumbency. (~~(Within thirty days after September 8, 1975, three members shall be appointed by the governor to serve one, two, and three years respectively.)~~)

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of (~~(three)~~) four years. The consumer member of the board shall be an individual who does not derive his or her livelihood by providing health care services or massage therapy and is not a licensed health professional. The consumer member shall not be an employee of the state nor a present or former member of another licensing board.

In the event that a member cannot complete his or her term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms (~~(and shall qualify and receive a license pursuant to this chapter within ninety days of their appointment)~~) whether full or partial. The governor may remove any member of the board for neglect of duty, incompetence, or unprofessional or disorderly conduct as determined under chapter 18.130 RCW.

~~((Subject to the approval of the director, the board shall have the power to promulgate rules and regulations not inconsistent with the law and which may be necessary for the performance of its duties. It shall be the~~

~~duty of the board to pass upon the qualifications of applicants for licenses, prepare the necessary examination questions and practical demonstrations, conduct examinations from time to time in such places as the director designates, and to determine the applicants who successfully passed the examination, and in turn notify the director of such determinations.))~~

Each member of the board shall be compensated in accordance with RCW 43.03.240. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060.

The board may annually elect a chairperson to direct the meetings of the board. The board shall meet as called by the chairperson or the director. Three members of the board shall constitute a quorum of the board.

NEW SECTION. Sec. 10. In addition to any other authority provided by law, the board may:

(1) Adopt rules in accordance with chapter 34.04 RCW necessary to implement this chapter, subject to the approval of the director;

(2) Define, evaluate, approve, and designate those schools, programs, and apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the licensing examination;

(3) Review approved schools and programs periodically;

(4) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for licensure; and

(5) Determine which states have educational and licensing requirements equivalent to those of this state.

The board shall establish by rule the standards and procedures for approving courses of study and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall apply equally to schools and training within the United States of America and those in foreign jurisdictions.

NEW SECTION. Sec. 11. (1) In addition to any other authority provided by law, the director may:

(a) Adopt rules, in accordance with chapter 34.04 RCW necessary to implement this chapter;

(b) Set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure; and

(e) Hire clerical, administrative, and investigative staff as necessary to implement this chapter, and hire individuals licensed under this chapter to serve as examiners for any practical examinations.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the disciplining of persons under this chapter. The director shall be the disciplining authority under this chapter.

(3) The director shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure under this chapter, with the result of each application.

NEW SECTION. Sec. 12. An applicant holding a license in another state or foreign jurisdiction may be granted a Washington license without examination, if, in the opinion of the board, the other state's or foreign jurisdiction's examination and educational requirements are substantially equivalent to Washington's: **PROVIDED**, That the applicant demonstrates to the satisfaction of the board a working knowledge of Washington law pertaining to the practice of massage. The applicant shall provide proof in a manner approved by the department that the examination and requirements are equivalent to Washington's.

NEW SECTION. Sec. 13. Any person holding a valid license to practice massage issued by authority of the state on the effective date of this section shall continue to be licensed as a massage practitioner under the provisions of this chapter.

NEW SECTION. Sec. 14. This chapter shall not be construed as affecting any existing right acquired or liability or obligations incurred under the sections amended or repealed in this chapter or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

*NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.090;

(2) Section 12, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.110;

(3) Section 13, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.120;

(4) Section 15, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.140;

(5) Section 16, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.150;

(6) Section 17, chapter 280, Laws of 1975 1st ex. sess., section 80, chapter 7, Laws of 1985 and RCW 18.108.160;

(7) Section 19, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.180;

(8) Section 21, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.200; and

(9) **Section 22, chapter 280, Laws of 1975 1st ex. sess. and RCW 18-108.210.**

*Sec. 15 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 16. Sections 1, 8, and 10 through 14 of this act are each added to chapter 18.108 RCW.

NEW SECTION. Sec. 17. The sum of one hundred twelve thousand, five hundred seventy dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the health professions account to the department of licensing for the purposes of this act.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. Section 12 of this act shall take effect June 1, 1988.

Passed the Senate April 10, 1987.

Passed the House April 8, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 2(5) and 15(9), Engrossed Substitute Senate Bill No. 5299, entitled:

"AN ACT Relating to massage therapy."

This bill makes a number of changes to the statute relating to the licensing of massage businesses and massage therapists. Sections 2(5) and 15(9) would have the effect, if signed into law, of prohibiting cities and counties from licensing and regulating massage businesses. It is important that local governments are allowed to license and regulate all massage businesses.

While most massage practices provide a valuable and needed service, there is still a need for some local authority over these businesses. The personal contact involved in this type of business brings with it the opportunity for business fronts for criminal activity which require law enforcement attention. Local regulation provides involvement by local officials and citizens who become justifiably concerned about the character of their community.

With the exception of sections 2(5) and 15(9), Engrossed Substitute Senate Bill No. 5299 is approved."