

HOUSE BILL 1563

J2

8lr3376
CF 8lr3326

By: **Delegate Hubbard**

Introduced and read first time: February 26, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Chiropractic and Massage Therapy Examiners - Licensure of**
3 **Massage Therapists**

4 FOR the purpose of renaming the State Board of Chiropractic Examiners to be the
5 State Board of Chiropractic and Massage Therapy Examiners; providing for the
6 licensure of massage therapists by the Board; increasing the number of the
7 members of the Board; adding a certain number of licensed chiropractor
8 members and licensed massage therapist members to the Board; requiring the
9 Governor to appoint certain massage therapist members with the advice and
10 consent of the Senate from a certain list submitted by a certain association;
11 providing for the qualifications of the massage therapist Board members;
12 amending qualifications for certain consumer members of the Board; requiring
13 the terms of Board members to be staggered; renaming the State Board of
14 Chiropractic Examiners Fund to be the State Board of Chiropractic and
15 Massage Therapy Examiners Fund; establishing certain violations and
16 penalties; substituting licensure for certification as the professional credential
17 for massage therapists; requiring the Board to adopt certain regulations
18 regarding the licensure of massage therapists; repealing certain provisions
19 regarding the Massage Therapy Advisory Committee; repealing certain
20 provisions authorizing certain individuals to practice massage therapy without
21 a license or without meeting certain qualifications for a license; authorizing the
22 Board to waive certain qualifications for licensure as a massage therapist under
23 certain circumstances; requiring the Board to adopt certain rules and
24 regulations to establish certain standards for advertising or soliciting by
25 licensed massage therapists or registered massage practitioners; providing that
26 certain mailed notices are not advertisements or solicitations; authorizing
27 licensed massage therapists and registered massage practitioners to use a
28 certain trade name under certain circumstances; requiring the Board to issue
29 licenses to certified massage therapists at the time the certificate holder's
30 certificate expires in accordance with certain renewal requirements; authorizing
31 certain certified massage therapists to continue to practice massage therapy

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 until a certificate holder's license is issued; making certain technical changes;
2 and generally relating to the State Board of Chiropractic and Massage Therapy
3 Examiners and the licensure of massage therapists.

4 BY repealing and reenacting, with amendments,
5 Article – Health Occupations
6 Section 3–201, 3–202, 3–206(a), 3–315, 3–316, 3–316.1, 3–501 through 3–503,
7 3–506, 3–5A–01 through 3–5A–03, 3–5A–05 through 3–5A–10, and
8 3–5A–12 through 3–5A–14
9 Annotated Code of Maryland
10 (2005 Replacement Volume and 2007 Supplement)

11 BY repealing
12 Article – Health Occupations
13 Section 3–5A–04 and 3–5A–11
14 Annotated Code of Maryland
15 (2005 Replacement Volume and 2007 Supplement)

16 BY adding to
17 Article – Health Occupations
18 Section 3–5A–13
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2007 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Health Occupations**

24 3–201.

25 There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners in
26 the Department.

27 3–202.

28 (a) (1) The Board consists of [7] **11** members.

29 (2) Of the [7] **11** members:

30 (i) [5] **6** shall be licensed chiropractors; [and]

31 **(II) 3 SHALL BE LICENSED MASSAGE THERAPISTS; AND**

32 [(ii)] **(III) 2** shall be consumer members.

1 (3) (I) The Governor shall appoint the chiropractor members, with
2 the advice of the Secretary, and with the advice and consent of the Senate, from a list
3 of qualified individuals submitted to the Governor by the Maryland Chiropractic
4 Association.

5 (II) The number of names on the list shall be five times the
6 number of vacancies.

7 (III) The list shall include the name of the incumbent member
8 unless the incumbent declines renomination.

9 (4) (I) **THE GOVERNOR SHALL APPOINT THE MESSAGE**
10 **THERAPIST MEMBERS, WITH THE ADVICE OF THE SECRETARY, AND WITH THE**
11 **ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF QUALIFIED**
12 **INDIVIDUALS SUBMITTED TO THE GOVERNOR BY THE AMERICAN MESSAGE**
13 **THERAPY ASSOCIATION, MARYLAND CHAPTER.**

14 (II) **THE NUMBER OF NAMES ON THE LIST SHALL BE FIVE**
15 **TIMES THE NUMBER OF VACANCIES.**

16 (III) **THE LIST SHALL INCLUDE THE NAME OF THE**
17 **INCUMBENT MEMBER UNLESS THE INCUMBENT DECLINES RENOMINATION.**

18 [(4)] (5) The Governor shall appoint the consumer members with the
19 advice of the Secretary, and with the advice and consent of the Senate.

20 (b) Each chiropractor member of the Board shall be:

21 (1) A resident of this State;

22 (2) A licensed chiropractor of integrity and ability who is in active
23 practice;

24 (3) A graduate of a resident course in chiropractic; and

25 (4) An individual who has practiced chiropractic in this State for at
26 least 5 consecutive years.

27 (c) **EACH MESSAGE THERAPIST MEMBER OF THE BOARD SHALL BE:**

28 (1) **A RESIDENT OF THIS STATE;**

29 (2) **A LICENSED MESSAGE THERAPIST OF INTEGRITY AND ABILITY**
30 **WHO IS IN ACTIVE PRACTICE;**

1 **(3) A GRADUATE OF A BOARD-APPROVED COURSE IN MASSAGE**
2 **THERAPY; AND**

3 **(4) AN INDIVIDUAL WHO HAS PRACTICED MASSAGE THERAPY IN**
4 **THIS STATE FOR AT LEAST 5 CONSECUTIVE YEARS.**

5 **[(c)] (D)** Each consumer member of the Board:

6 (1) Shall be a member of the general public;

7 (2) May not be or ever have been a chiropractor **OR MASSAGE**
8 **THERAPIST** or in training to become a chiropractor **OR MASSAGE THERAPIST**;

9 (3) May not have a household member who is a chiropractor **OR**
10 **MASSAGE THERAPIST** or in training to become a chiropractor **OR MASSAGE**
11 **THERAPIST**;

12 (4) May not participate or ever have participated in a commercial or
13 professional field related to chiropractic **OR MASSAGE THERAPY**;

14 (5) May not have a household member who participates in a
15 commercial or professional field related to chiropractic **OR MASSAGE THERAPY**; and

16 (6) May not have had, within 2 years before appointment, a
17 substantial financial interest in a person regulated by the Board.

18 **[(d)] (E)** (1) In addition to the requirements of [subsection (b)]
19 **SUBSECTIONS (B) AND (C)** of this section, each chiropractic **AND MASSAGE**
20 **THERAPY** member of the Board shall be a licensed chiropractor **OR LICENSED**
21 **MASSAGE THERAPIST** whose license is in good standing with the Board.

22 (2) For purposes of this subsection, “good standing” means that the
23 Board has not reprimanded the licensee, suspended or revoked the license of the
24 chiropractor **OR MASSAGE THERAPIST**, or placed the licensee on probation within 5
25 years prior to or after confirmation to the Board.

26 **[(e)] (F)** While a member of the Board, a consumer member may not have a
27 substantial financial interest in a person regulated by the Board.

28 **[(f)] (G)** Before taking office, each appointee to the Board shall take the
29 oath required by Article I, § 9 of the State Constitution.

30 **[(g)] (H)** (1) The term of a member is 4 years.

31 (2) The terms of members are staggered as required by the terms
32 provided for members of the Board on [July 1, 1986] **OCTOBER 1, 2008**.

1 (3) At the end of a term, a member continues to serve until a successor
2 is appointed and qualifies.

3 (4) A member who is appointed after a term has begun serves only for
4 the rest of the term and until a successor is appointed and qualifies.

5 (5) The Governor shall fill any vacancy on the Board within 60 days of
6 the date of the vacancy.

7 (6) A member may not serve more than 2 consecutive full terms.

8 [(h)] (I) (1) The Governor may remove a member for incompetence or
9 misconduct.

10 (2) Upon the recommendation of the Secretary, the Governor may
11 remove a member whom the Secretary finds to have been absent from 2 successive
12 Board meetings without adequate reason.

13 3-206.

14 (a) There is a State Board of Chiropractic **AND MESSAGE THERAPY**
15 Examiners Fund.

16 3-315.

17 (a) Except as otherwise provided in the Administrative Procedure Act, before
18 the Board takes any action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS**
19 **TITLE**, it shall give the individual against whom the action is contemplated an
20 opportunity for a hearing before the Board.

21 (b) The Board shall give notice and hold the hearing in accordance with the
22 Administrative Procedure Act.

23 (c) The individual may be represented at the hearing by counsel.

24 (d) Over the signature of an officer or the administrator of the Board, the
25 Board may issue subpoenas and administer oaths in connection with any investigation
26 under this title and any hearings or proceedings before it.

27 (e) If, without lawful excuse, a person disobeys a subpoena from the Board or
28 an order by the Board to take an oath or to testify or answer a question, then, on
29 petition of the Board, a court of competent jurisdiction shall compel compliance with
30 the subpoena and may punish the person as for contempt of court.

1 (f) If after due notice the individual against whom the action is
2 contemplated fails or refuses to appear, nevertheless the Board may hear and
3 determine the matter.

4 (g) If, after a hearing, a chiropractor **OR MESSAGE THERAPIST** is found in
5 violation of § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, the chiropractor
6 **OR MESSAGE THERAPIST** shall pay to the Board the costs for court reporting
7 services.

8 3-316.

9 (a) Except as provided in this section for an action under § 3-313 of this
10 subtitle **OR § 3-5A-11 OF THIS TITLE**, any person aggrieved by a final decision of the
11 Board in a contested case, as defined in the Administrative Procedure Act, may:

12 (1) Appeal that decision to the Board of Review; and

13 (2) Then take any further appeal allowed by the Administrative
14 Procedure Act.

15 (b) (1) Any person aggrieved by a final decision of the Board under §
16 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE** may not appeal to the Secretary
17 or Board of Review but may take a direct judicial appeal.

18 (2) The appeal shall be made as provided for judicial review of final
19 decisions in the Administrative Procedure Act.

20 3-316.1.

21 (a) An action may be maintained in the name of this State or the Board to
22 enjoin:

23 (1) The unauthorized practice of chiropractic **OR MESSAGE THERAPY**;
24 or

25 (2) Conduct that is a ground for disciplinary action under § 3-313 of
26 this subtitle **OR § 3-5A-11 OF THIS TITLE**.

27 (b) An action under this section may be brought by:

28 (1) The Board, in its own name;

29 (2) The Attorney General, in the name of this State; or

30 (3) A State's Attorney, in the name of this State.

1 (c) An action under this section shall be brought in the county where the
2 defendant:

3 (1) Resides; or

4 (2) Engages in the acts sought to be enjoined.

5 (d) (1) Except as provided in paragraph (2) of this subsection, an action
6 under this section may not be brought against an individual who is authorized to
7 practice a health occupation under this article.

8 (2) An action under this section may be brought against an individual
9 who is authorized to practice chiropractic **OR MASSAGE THERAPY** under this title.

10 (e) Proof of actual damage or that any person will sustain any damage if an
11 injunction is not granted is not required for an action under this section.

12 (f) An action under this section is in addition to and not instead of criminal
13 prosecution for:

14 (1) [the] **THE** unauthorized practice of chiropractic under § 3-501 of
15 this title or disciplinary action under § 3-313 of this subtitle; **OR**

16 (2) **THE UNAUTHORIZED PRACTICE OF MASSAGE THERAPY**
17 **UNDER § 3-501 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 3-5A-11 OF**
18 **THIS TITLE.**

19 3-501.

20 (A) Except as otherwise provided in § 3-404 of this title, a person may not
21 practice, attempt to practice, or offer to practice chiropractic in this State unless
22 licensed by the Board.

23 (B) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL**
24 **MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE**
25 **THERAPY, MASSAGE, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF**
26 **THESE TERMS IN THIS STATE UNLESS LICENSED OR REGISTERED BY THE**
27 **BOARD.**

28 3-502.

29 (a) (1) Unless authorized to practice chiropractic under this title, a person
30 may not represent to the public by title, by description of services, methods, or
31 procedures, or otherwise, that the person is authorized to practice chiropractic in this
32 State.

1 **[(b)] (2)** Unless authorized to practice under this title, a person may not use
2 the title “chiropractor”, or “D.C.”, or any other term or title with the intent to
3 represent that the person practices chiropractic.

4 **(B) (1)** **AN INDIVIDUAL WHO IS NOT A LICENSED MASSAGE THERAPIST**
5 **OR REGISTERED AS A MASSAGE PRACTITIONER UNDER THIS TITLE MAY NOT**
6 **ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER**
7 **REPRESENTATION THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE**
8 **THERAPY, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS.**

9 **(2)** **UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A**
10 **PERSON MAY NOT USE THE TITLE “MASSAGE THERAPIST”, “MT”, “LICENSED**
11 **MASSAGE THERAPIST”, “LMT”, “MASSAGE PRACTITIONER”, “MP”,**
12 **“REGISTERED MASSAGE PRACTITIONER”, “RMP”, OR ANY OTHER TERM OR**
13 **TITLE WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES**
14 **MASSAGE THERAPY.**

15 **(C)** **AN INDIVIDUAL WHO IS A REGISTERED MASSAGE PRACTITIONER**
16 **UNDER THIS TITLE OR A BUSINESS ENTITY THAT EMPLOYS REGISTERED**
17 **MASSAGE PRACTITIONERS UNDER THIS TITLE MAY NOT ADVERTISE TO THE**
18 **PUBLIC THAT THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES**
19 **HEALTH-RELATED THERAPEUTIC MASSAGE SERVICES.**

20 **(D) (1)** **IN CHARLES COUNTY AND WASHINGTON COUNTY, AN**
21 **INDIVIDUAL MAY NOT PERFORM A MASSAGE OR OFFER TO PERFORM A MASSAGE**
22 **ON ANOTHER PERSON FOR COMPENSATION UNLESS THE INDIVIDUAL WHO**
23 **PERFORMS THE MASSAGE OR OFFERS TO PERFORM A MASSAGE IS A LICENSED**
24 **MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER.**

25 **(2)** **A LAW ENFORCEMENT OFFICER IN CHARLES COUNTY OR**
26 **WASHINGTON COUNTY MAY DEMAND PROOF OF LICENSURE OR REGISTRATION.**

27 3-503.

28 A person may not buy, sell, or fraudulently obtain:

29 (1) A license; or

30 (2) Any diploma or degree required under § 3-302 **OR § 3-5A-06** of
31 this title.

32 3-506.

33 (a) A person who practices or attempts to practice chiropractic **OR MASSAGE**
34 **THERAPY** without a license in violation of § 3-501 of this subtitle or represents to the

1 public in violation of § 3–502 of this subtitle that the person is authorized to practice
2 chiropractic **OR MASSAGE THERAPY** is guilty of a misdemeanor and on conviction is
3 subject to:

4 (1) For a first offense, a fine not exceeding \$2,000 or imprisonment not
5 exceeding 6 months; or

6 (2) For a subsequent offense, a fine not exceeding \$6,000 or
7 imprisonment not exceeding 1 year.

8 (b) A person who is convicted under the provisions of this section shall
9 reimburse the Board for the direct costs of the Board, including court reporting
10 services and expert witness fees, incurred as a result of a prosecution under this
11 section.

12 3–5A–01.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) “Board” means the State Board of Chiropractic **AND MASSAGE**
15 **THERAPY** Examiners.

16 [(c) “Certificate” means, unless the context requires otherwise, a certificate
17 issued by the Board to practice massage therapy.

18 (d) “Certified massage therapist” means an individual who is certified by the
19 Board to practice massage therapy.]

20 [(e)] (C) “Health care facility” has the meaning stated in § 19–114(d) of the
21 Health – General Article.

22 (D) **“LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A**
23 **LICENSE ISSUED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

24 (E) **“LICENSED MASSAGE THERAPIST” MEANS AN INDIVIDUAL WHO IS**
25 **LICENSED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

26 (f) (1) “Massage therapy” means the use of manual techniques on soft
27 tissues of the human body including effleurage (stroking), petrissage (kneading),
28 tapotement (tapping), stretching, compression, vibration, and friction, with or without
29 the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical
30 applications, for the purpose of improving circulation, enhancing muscle relaxation,
31 relieving muscular pain, reducing stress, or promoting health and well-being.

32 (2) “Massage therapy” does not include:

33 (i) The diagnosis or treatment of illness, disease, or injury;

1 (ii) The adjustment, manipulation, or mobilization of any of the
2 articulations of the osseous structures of the body or spine; or

3 (iii) ~~[The]~~ **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
4 **SUBSECTION, THE** laying on of hands, consisting of pressure or movement on a fully
5 clothed individual, to specifically affect the electromagnetic energy or energetic field of
6 the human body.

7 **(3) “MASSAGE THERAPY” INCLUDES THE LAYING ON OF HANDS,**
8 **CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL,**
9 **TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY OR ENERGETIC**
10 **FIELD OF THE HUMAN BODY IF THIS PRACTICE INCLUDES USE OF THE MANUAL**
11 **TECHNIQUES SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

12 ~~[(3)]~~ **(4)** In paragraph (2)(iii) of this subsection, “fully clothed” does
13 not require the wearing of footwear.

14 ~~[(4)]~~ **(5)** The provisions of paragraph (2) of this subsection do not
15 preclude the application of the modalities described in paragraph (1) of this subsection
16 to an individual who has an injury.

17 ~~[(g)]~~ “Massage Therapy Advisory Committee” means the Committee
18 established under § 3–5A–04 of this subtitle.]

19 ~~[(h)]~~ **(G)** “Practice massage therapy” means to engage professionally and for
20 compensation in massage therapy.

21 ~~[(i)]~~ **(H)** “Practice non–therapeutic massage” means to engage
22 professionally and for compensation in massage therapy in a setting that is not a
23 health care facility.

24 ~~[(j)]~~ **(I)** “Registered massage practitioner” means an individual who is
25 registered by the Board to practice non–therapeutic massage.

26 ~~[(k)]~~ **(J)** “Registration” means, unless the context requires otherwise, a
27 registration issued by the Board to practice non–therapeutic massage.

28 3–5A–02.

29 The Board shall adopt regulations for the:

30 (1) ~~[Certification]~~ **LICENSURE** and practice of massage therapists;
31 and

32 (2) Registration and practice of massage practitioners.

1 3-5A-03.

2 (a) (1) The Board shall set reasonable fees for the issuance and renewal of
3 [certificates] **LICENSES** and registrations and the other services it provides to
4 massage therapists.

5 (2) The fees charged shall be set so as to produce funds to approximate
6 the cost of maintaining the [certification] **LICENSURE** program, registration program,
7 and the other services provided to massage therapists.

8 (b) (1) The Board shall pay all fees collected under the provisions of this
9 subtitle to the Comptroller of the State.

10 (2) The Comptroller shall distribute all fees to the State Board of
11 Chiropractic **AND MASSAGE THERAPY** Examiners Fund established under § 3-206 of
12 this title.

13 (c) The fees shall be used exclusively to cover the actual documented direct
14 and indirect costs of fulfilling the statutory and regulatory duties of the Board as
15 provided by the provisions of this subtitle.

16 [3-5A-04.

17 (a) (1) There is a Massage Therapy Advisory Committee within the
18 Board.

19 (2) The Committee shall consist of six members appointed by the
20 Board.

21 (3) Of the six members:

22 (i) Two shall be licensed chiropractors; and

23 (ii) Four shall be certified massage therapists.

24 (b) In addition to the powers and duties set forth elsewhere in this subtitle,
25 the Advisory Committee shall:

26 (1) Develop and recommend to the Board regulations to carry out the
27 provisions of this subtitle;

28 (2) Develop and recommend to the Board a code of ethics for the
29 practice of massage therapy for adoption by the Board;

30 (3) Develop and recommend to the Board the requirements for:

- 1 (i) Certification as a massage therapist; and
- 2 (ii) Registration as a massage practitioner;
- 3 (4) Evaluate the credentials of applicants and recommend to the
4 Board certification of applicants who fulfill the requirements for:
- 5 (i) A certificate to practice massage therapy; or
- 6 (ii) A registration to practice non-therapeutic massage;
- 7 (5) Consider complaints brought to the Board involving certified
8 massage therapists or registered massage practitioners and recommend to the Board
9 the appropriate disciplinary action;
- 10 (6) Evaluate education programs in massage therapy for approval by
11 the Board;
- 12 (7) Keep a record of its proceedings; and
- 13 (8) Submit an annual report to the Board.]

14 ~~[3-5A-05.] 3-5A-04.~~

- 15 [(a) (1)] Except as otherwise provided in this subtitle, an individual shall
16 be:
- 17 [(i) (1)] ~~[Certified]~~ **LICENSED** by the Board before the
18 individual may practice massage therapy in this State; or
- 19 [(ii) (2)] Registered by the Board before the individual may
20 practice non-therapeutic massage in this State.

21 ~~3-5A-05.~~

- 22 [(2)] This [section] **SUBTITLE** does not apply to:

23 [(i) (1)] A student enrolled in an approved education program
24 as determined by the Board while practicing massage therapy in that program;

25 [(ii) (2)] An individual permitted to practice massage therapy
26 under regulations adopted by the Board, if the individual[:

27 1. ~~Otherwise]~~ **OTHERWISE** has qualified to practice
28 massage therapy in any other state or country that has substantially similar

1 requirements for authorization to practice massage therapy and the individual is in
2 this State for no more than 7 days[; or

3 2. Has an application for a certificate pending before the
4 Board but has not taken the examination required under this section or has taken an
5 examination under this section, but the results of the examination are not yet known];

6 [(iii)] (3) A family member practicing massage therapy on
7 another family member;

8 [(iv)] (4) An athletic trainer while functioning in the course of
9 the athletic trainer's professional capacity;

10 [(v)] (5) An individual employed by the federal government to
11 practice massage therapy while practicing within the scope of the individual's
12 employment; or

13 [(vi)] (6) An individual working in a beauty salon:

14 [1.] (I) For which the person who operates the beauty
15 salon has obtained a permit from the State Board of Cosmetology as required under §
16 5-501 of the Business Occupations and Professions Article; and

17 [2.] (II) In which the individual is providing
18 cosmetology and esthetic services, including the application and removal of skin or
19 skin care products.

20 **3-5A-06.**

21 [(b)] (A) To qualify for a [certificate] LICENSE, an applicant shall be an
22 individual who:

23 (1) Is of good moral character;

24 (2) Is at least 18 years old;

25 [(3)] (i) After January 1, 2002, has satisfactorily completed at least
26 60 credit hours of education at an institution of higher education as defined in §
27 10-101 of the Education Article and as approved by the Board and the Maryland
28 Higher Education Commission; or

29 (ii) On or after March 1, 2004, enrolled in a school approved by
30 the Board at the time of enrollment and graduated from that school no later than
31 December 31, 2004;]

32 [(4)] (3) Has completed 500 hours of education in a Board approved
33 program for the study of massage therapy that includes the following areas of content:

- 1 (i) Anatomy and physiology;
- 2 (ii) Massage theory, techniques, and practice;
- 3 (iii) Contraindications to massage therapy; and
- 4 (iv) Professional ethics; and

5 ~~[(5)]~~ (4) Has passed an examination approved by the Board.

6 [(c)] (B) To qualify for registration, an applicant shall be an individual who:

- 7 (1) Is of good moral character;
- 8 (2) Is at least 18 years old;
- 9 (3) Has completed 500 hours of education in a Board approved
- 10 program for the study of massage therapy that includes the following areas of content:

- 11 (i) Anatomy and physiology;
- 12 (ii) Massage theory, techniques, and practice;
- 13 (iii) Contraindications to massage therapy; and
- 14 (iv) Professional ethics; and

15 (4) Has passed an examination approved by the Board.

16 [(d)] (1) Subject to the provisions of paragraph (2) of this subsection, the
17 Board may waive any of the qualifications required for a certificate under this subtitle
18 for an applicant who:

- 19 (i) Pays the application fee set by the Board;
- 20 (ii) Provides evidence acceptable to the Board that the applicant
- 21 has practiced massage therapy for at least a total of 2 years after October 1, 1994 and
- 22 before October 1, 1999 and has performed at least 300 paid massage therapy sessions;
- 23 and

24 (iii) 1. Completes a Board approved program in the study of
25 massage therapy; or

26 2. Passes an examination approved by the Board.

1 (2) The authority of the Board to grant a waiver under this subsection
2 shall terminate on January 1, 2002.]

3 **3-5A-07.**

4 [(e)] [(1)] (A) Subject to the provisions of this [subsection] SECTION, the
5 Board may waive any requirement of this subtitle for an applicant who is registered,
6 certified, or licensed to practice massage therapy in another state.

7 [(2)] (B) The Board may grant a waiver under this [subsection]
8 SECTION only if the applicant:

9 [(i)] (1) Pays the application fee set by the Board; and

10 [(ii)] (2) Provides adequate evidence that the applicant:

11 [1.] (I) Has completed educational requirements that
12 the Board determines to be equivalent to the Board approved educational
13 requirements in this State; AND

14 [2.] (II) 1. At the time the applicant became certified,
15 registered, or licensed in the other state, passed in that state or any other state an
16 examination that the Board determines to be equivalent to the examination required
17 in this State; [and] OR

18 2. **PASSED AN EXAMINATION APPROVED BY THE**
19 **BOARD; AND**

20 [3.] (3) Is of good moral character.

21 [3-5A-06.] **3-5A-08.**

22 An individual who is registered to practice non-therapeutic massage under [§
23 3-5A-05] § **3-5A-06** of this subtitle may not practice in a medical health care
24 provider's office, hospital, or other health care facility for the purpose of providing
25 massage.

26 [3-5A-07.] **3-5A-09.**

27 [(a)] To apply for a [certificate] **LICENSE OR REGISTRATION**, an applicant
28 shall:

29 (1) Submit to the Board an application on the form that the Board
30 requires;

1 (2) Submit to the Board evidence of compliance with the requirements
2 of § 3-5A-05 of this subtitle; and

3 (3) Pay the application fee set by the Board.

4 [(b) To apply for registration, an applicant shall:

5 (1) Submit to the Board an application on the form that the Board
6 requires;

7 (2) Submit to the Board evidence of compliance with the requirements
8 of § 3-5A-05 of this subtitle; and

9 (3) Pay the application fee set by the Board.]

10 [3-5A-08.] **3-5A-10.**

11 (a) (1) A [certificate] **LICENSE** or registration expires on the date set by
12 the Board, unless the [certificate] **LICENSE** or registration is renewed for a 1-year
13 term as provided in this section.

14 (2) A [certificate] **LICENSE** or registration may not be renewed for a
15 term of longer than 2 years.

16 (b) At least 1 month before the [certificate] **LICENSE** or registration expires,
17 the Board shall send to the [certificate holder] **LICENSEE** or registration holder, by
18 first-class mail to the last known address of the [certificate holder] **LICENSEE** or
19 registration holder, a renewal notice that states:

20 (1) The date on which the current [certificate] **LICENSE** or
21 registration expires;

22 (2) The date by which the renewal application must be received by the
23 Board for the renewal to be issued and mailed before the [certificate] **LICENSE** or
24 registration expires; and

25 (3) The amount of the renewal fee.

26 (c) Before a [certificate] **LICENSE** or registration expires, the [certificate
27 holder] **LICENSEE** or registration holder periodically may renew it for an additional
28 term, if the [certificate holder] **LICENSEE** or registration holder:

29 (1) Otherwise is entitled to be [certified] **LICENSED** or registered;

30 (2) Submits to the Board a renewal application on the form that the
31 Board requires; and

1 (3) Pays to the Board a renewal fee set by the Board.

2 (d) (1) Each [certificate holder] **LICENSEE** or registration holder shall
3 notify the Board in writing of any change in the name or address of the [certificate
4 holder] **LICENSEE** or registration holder within 60 days after the change occurred.

5 (2) If a [certificate holder] **LICENSEE** or registration holder fails to
6 notify the Board within the time required under this subsection, subject to the hearing
7 provisions of § 3–315 of this title, the Board may impose an administrative penalty of
8 \$100.

9 (e) [(1)] The Board shall renew the [certificate of each certificate holder]
10 **LICENSE OF EACH LICENSEE AND THE REGISTRATION OF EACH REGISTRATION**
11 **HOLDER** who meets the requirements of this section.

12 [(2) The Board shall renew the registration of each registration holder
13 who meets the requirements of this section.]

14 [3–5A–11.

15 (a) Except as otherwise provided in this subtitle, an individual may not
16 practice, attempt to practice, or offer to practice massage therapy, massage,
17 myotherapy, or any synonym or derivation of these terms in this State unless certified
18 by the Board.

19 (b) An individual who is not certified as a certified massage therapist or
20 registered as a massage practitioner under this subtitle may not advertise or claim by
21 title, abbreviation, sign, card, or any other representation that the individual practices
22 massage, massage therapy, myotherapy, or any synonym or derivation of these terms.

23 (c) An individual who is a registered massage practitioner under this
24 subtitle or a business entity that employs registered massage practitioners under this
25 subtitle may not advertise to the public that the individual or business entity provides
26 health-related therapeutic massage services.

27 (d) (1) In Charles County and Washington County, an individual may not
28 perform a massage or offer to perform a massage on another person for compensation
29 unless the individual who performs the massage or offers to perform a massage is a
30 certified massage therapist or registered massage practitioner.

31 (2) A law enforcement officer in Charles County or Washington
32 County may demand proof of certification or registration.

33 (e) Any individual who violates a provision of this section is guilty of a
34 misdemeanor and on conviction shall be subject to a fine not exceeding \$5,000 or
35 imprisonment for not more than 1 year, or both.]

1 [3-5A-09.] **3-5A-11.**

2 (a) Subject to the hearing provisions of § 3-315 of this title, the Board may
3 deny a [certificate] **LICENSE** or registration to any applicant, reprimand any
4 [certificate holder] **LICENSEE** or registration holder, place any [certificate holder]
5 **LICENSEE** or registration holder on probation, or suspend or revoke the [certificate]
6 **LICENSE** of a [certificate holder] **LICENSEE** or the registration of a registration holder
7 if the applicant, [certificate holder] **LICENSEE**, or registration holder:

8 (1) Fraudulently or deceptively obtains or attempts to obtain a
9 [certificate] **LICENSE** or registration for the applicant or for another;

10 (2) Fraudulently or deceptively uses a [certificate] **LICENSE** or
11 registration;

12 (3) Is disciplined by a licensing, certifying, or disciplinary authority of
13 any other state or country or convicted or disciplined by a court of any state or country
14 for an act that would be grounds for disciplinary action under this section;

15 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
16 crime involving moral turpitude, whether or not any appeal or other proceeding is
17 pending to have the conviction or plea set aside;

18 (5) Willfully and knowingly:

19 (i) Files a false report or record of an individual under the care
20 of the [certificate] **LICENSE** holder or registration holder; or

21 (ii) Gives any false or misleading information about a material
22 matter in an employment application;

23 (6) Knowingly does any act that has been determined by the Board, in
24 its regulations, to exceed the scope of practice authorized to the individual under this
25 subtitle;

26 (7) Provides professional services while:

27 (i) Under the influence of alcohol; or

28 (ii) Using any narcotic or controlled dangerous substance, as
29 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
30 therapeutic amounts or without valid medical indication;

31 (8) Does an act that is inconsistent with generally accepted
32 professional standards in the practice of massage therapy;

- 1 (9) Is negligent in the practice of massage therapy;
- 2 (10) Is professionally incompetent;
- 3 (11) Has violated any provision of this subtitle;
- 4 (12) Submits a false statement to collect a fee;
- 5 (13) Is physically or mentally incompetent;
- 6 (14) Knowingly fails to report suspected child abuse in violation of §
7 5–704 of the Family Law Article;
- 8 (15) Refuses, withholds from, denies, or discriminates against an
9 individual with regard to the provision of professional services for which the
10 [certificate holder] **LICENSEE** or registration holder is qualified to render because the
11 individual is HIV positive;
- 12 (16) Except in an emergency life–threatening situation where it is not
13 feasible or practicable, fails to comply with the Centers for Disease Control’s
14 guidelines on universal precautions;
- 15 (17) Is habitually intoxicated;
- 16 (18) Is addicted to, or habitually abuses, any narcotic or controlled
17 dangerous substance as defined in § 5–101 of the Criminal Law Article;
- 18 (19) Fails to cooperate with a lawful investigation conducted by the
19 Board;
- 20 (20) Engages in conduct that violates the professional code of ethics; or
- 21 (21) Knowingly does an act that has been determined by the Board to
22 be a violation of the Board’s regulations.

23 (b) If, after a hearing under § 3–315 of this title, the Board finds that there
24 are grounds under subsection (a) of this section to suspend or revoke a [certificate]
25 **LICENSE** to practice massage therapy or registration to practice non–therapeutic
26 massage, to reprimand a [certificate holder] **LICENSEE** or registration holder, or place
27 a [certificate holder] **LICENSEE** or registration holder on probation, the Board may
28 impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or
29 revoking the [certificate] **LICENSE** or registration, reprimanding the [certificate
30 holder] **LICENSEE** or registration holder, or placing the [certificate holder] **LICENSEE**
31 or registration holder on probation.

1 (c) (1) An individual whose [certificate] LICENSE or registration has been
2 suspended or revoked by the Board shall return the [certificate] LICENSE or
3 registration to the Board.

4 (2) If the suspended or revoked [certificate] LICENSE or registration
5 has been lost, the individual shall file with the Board a verified statement to that
6 effect.

7 (d) The Board shall file a notice for publication in the earliest publication of
8 the Maryland Register of each revocation or suspension of a [certificate] LICENSE or
9 registration under this section within 24 hours of the revocation or suspension.

10 ~~[3-5A-10.] 3-5A-12.~~

11 This subtitle does not limit the right of an individual to practice or advertise an
12 occupation that the individual is otherwise authorized to practice under the Maryland
13 Annotated Code.

14 **3-5A-13.**

15 (A) **THE BOARD SHALL ADOPT RULES AND REGULATIONS TO ESTABLISH**
16 **STANDARDS FOR ADVERTISING OR SOLICITING BY LICENSED MASSAGE**
17 **THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS.**

18 (B) **FOR PURPOSES OF THIS SECTION, NOTICES MAILED TO PATIENTS**
19 **TO INFORM THEM OF TIMES FOR PERIODIC APPOINTMENTS ARE NOT**
20 **ADVERTISING OR SOLICITING.**

21 (C) **A LICENSED MASSAGE THERAPIST OR A REGISTERED MASSAGE**
22 **PRACTITIONER MAY USE A TRADE NAME IN CONNECTION WITH THE PRACTICE**
23 **OF MASSAGE THERAPY PROVIDED THAT:**

24 (1) **THE USE OF THE TRADE NAME IS NOT DECEPTIVE OR**
25 **MISLEADING;**

26 (2) **THE ADVERTISEMENT IN WHICH THE TRADE NAME APPEARS**
27 **INCLUDES THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED**
28 **MASSAGE PRACTITIONER OR THE NAME OF THE BUSINESS ENTITY PROVIDING**
29 **THE MASSAGE THERAPY SERVICES BEING ADVERTISED, AS LONG AS THE**
30 **ADVERTISEMENT INCLUDES THE NAME OF A LICENSED MASSAGE THERAPIST OR**
31 **REGISTERED MASSAGE PRACTITIONER;**

32 (3) **THE NAME OF THE LICENSED MASSAGE THERAPIST OR**
33 **REGISTERED MASSAGE PRACTITIONER PROVIDING MASSAGE THERAPY**

1 SERVICES APPEARS ON THE BILLING INVOICES, STATIONERY, AND ON ANY
2 RECEIPT GIVEN TO A PATIENT;

3 (4) TREATMENT RECORDS ARE MAINTAINED THAT CLEARLY
4 IDENTIFY THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE
5 PRACTITIONER WHO HAS PERFORMED THE MASSAGE THERAPY SERVICE FOR
6 THE PATIENT; AND

7 (5) THE USE OF A TRADE NAME IS PREAPPROVED BY THE BOARD
8 BEFORE USE.

9 [3-5A-12.] **3-5A-14.**

10 A health care provider licensed or certified under this article may not refer
11 patients to a person who is not a [certified] LICENSED massage therapist.

12 [3-5A-13.] **3-5A-15.**

13 Notwithstanding the fact that these services are provided within the scope of
14 their [certified] LICENSED practice, nothing in this subtitle requires a nonprofit
15 health service plan, insurer, health maintenance organization, or person acting as a
16 third party administrator to reimburse a [certified] LICENSED massage therapist or
17 registered massage practitioner for any services rendered.

18 [3-5A-14.] **3-5A-16.**

19 (a) In Charles County and Washington County, the County Commissioners
20 may adopt ordinances or regulations relating to massage establishments and the
21 practices of massage therapists, massage practitioners, and any other individuals who
22 provide massage for compensation.

23 (b) (1) The Charles County Commissioners shall provide that the Director
24 of the Charles County Health Department and the Office of the Sheriff for Charles
25 County have the authority to carry out the provisions of the ordinances or regulations
26 adopted under subsection (a) of this section.

27 (2) The Washington County Commissioners shall provide that the
28 Washington County Health Officer and the Office of the Sheriff for Washington
29 County have the authority to carry out the provisions of the ordinances or regulations
30 adopted under subsection (a) of this section.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall
32 appoint one chiropractor member and three massage therapist members to the State
33 Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of
34 the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the
35 members are as follows:

1 (1) the one chiropractor member and one massage therapist member
2 shall serve for a term of 2 years which shall begin on July 1, 2009 and shall terminate
3 at the end of June 30, 2011, and the members shall serve until a successor is
4 appointed and qualifies; and

5 (2) the two massage therapist members shall serve for a term of 4
6 years which shall begin on July 1, 2009, and shall terminate at the end of June 30,
7 2013 and the members shall serve until a successor is appointed and qualifies.

8 SECTION 3. AND BE IT FURTHER ENACTED, That for individuals certified
9 by the State Board of Chiropractic Examiners before October 1, 2008, to practice
10 massage therapy:

11 (1) at the time the certificate expires, the Board shall issue a license to
12 replace the certificate in accordance with the renewal requirements under § 3-5A-10
13 of the Health Occupations Article; and

14 (2) the individual may continue to practice massage therapy as a
15 certified massage therapist until a license is issued.

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2008.