

CHAPTER 243

(House Bill 1563)

AN ACT concerning

State Board of Chiropractic and Massage Therapy Examiners – Licensure of Massage Therapists

FOR the purpose of renaming the State Board of Chiropractic Examiners to be the State Board of Chiropractic and Massage Therapy Examiners; providing for the licensure of massage therapists by the Board; increasing the number of the members of the Board; adding a certain number of licensed chiropractor members and licensed massage therapist members to the Board; requiring the Governor to appoint certain massage therapist members with the advice and consent of the Senate from a certain list submitted by a certain association; providing for the qualifications of the massage therapist Board members; amending qualifications for certain consumer members of the Board; requiring the terms of Board members to be staggered; renaming the State Board of Chiropractic Examiners Fund to be the State Board of Chiropractic and Massage Therapy Examiners Fund; establishing certain violations and penalties; substituting licensure for certification as the professional credential for massage therapists; requiring the Board to adopt certain regulations regarding the licensure of massage therapists; repealing certain provisions regarding the Massage Therapy Advisory Committee; repealing certain provisions authorizing certain individuals to practice massage therapy without a license or without meeting certain qualifications for a license; authorizing the Board to waive certain qualifications for licensure as a massage therapist under certain circumstances; requiring the Board to adopt certain rules and regulations to establish certain standards for advertising or soliciting by licensed massage therapists or registered massage practitioners; providing that certain mailed notices are not advertisements or solicitations; authorizing licensed massage therapists and registered massage practitioners to use a certain trade name under certain circumstances; requiring the Board to issue licenses to certified massage therapists at the time the certificate holder's certificate expires in accordance with certain renewal requirements; authorizing certain certified massage therapists to continue to practice massage therapy until a certificate holder's license is issued; making certain technical changes; and generally relating to the State Board of Chiropractic and Massage Therapy Examiners and the licensure of massage therapists.

BY repealing and reenacting, with amendments,
Article – Health Occupations

Section 3-201, 3-202, 3-206(a), 3-315, 3-316, 3-316.1, 3-501 through 3-503, 3-506, 3-5A-01 through 3-5A-03, 3-5A-05 through 3-5A-10, and 3-5A-12 through 3-5A-14

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article – Health Occupations
Section 3-5A-04 and 3-5A-11
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations
Section 3-5A-13
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health Occupations

3-201.

There is a State Board of Chiropractic **AND MESSAGE THERAPY** Examiners in the Department.

3-202.

- (a) (1) The Board consists of [7] **11** members.
- (2) Of the [7] **11** members:
 - (i) [5] **6** shall be licensed chiropractors; [and]
 - (II) **3 SHALL BE LICENSED MESSAGE THERAPISTS; AND**
 - [(ii)] (III) 2 shall be consumer members.

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

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

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

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

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

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

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

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

- (1) A resident of this State;
- (2) A licensed chiropractor of integrity and ability who is in active practice;
- (3) A graduate of a resident course in chiropractic; and
- (4) An individual who has practiced chiropractic in this State for at least 5 consecutive years.

(c) EACH MASSAGE THERAPIST MEMBER OF THE BOARD SHALL BE:

- (1) A RESIDENT OF THIS STATE;**
- (2) A LICENSED MASSAGE THERAPIST OF INTEGRITY AND ABILITY WHO IS IN ACTIVE PRACTICE;**
- (3) A GRADUATE OF A BOARD-APPROVED COURSE IN MASSAGE THERAPY; AND**

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

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

- (1) Shall be a member of the general public;
- (2) May not be or ever have been a chiropractor **OR MESSAGE THERAPIST** or in training to become a chiropractor **OR MESSAGE THERAPIST**;
- (3) May not have a household member who is a chiropractor **OR MESSAGE THERAPIST** or in training to become a chiropractor **OR MESSAGE THERAPIST**;
- (4) May not participate or ever have participated in a commercial or professional field related to chiropractic **OR MESSAGE THERAPY**;
- (5) May not have a household member who participates in a commercial or professional field related to chiropractic **OR MESSAGE THERAPY**; and
- (6) May not have had, within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

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

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

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

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

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

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

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

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

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

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

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

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

3-206.

(a) There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners Fund.

3-315.

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

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

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

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

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

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

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

3-316.

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

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

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

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

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

3-316.1.

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

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

or

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

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

(1) The Board, in its own name;

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

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

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

- (1) Resides; or
- (2) Engages in the acts sought to be enjoined.

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

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

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

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

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

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

3-501.

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

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

3-502.

(a) (1) Unless authorized to practice chiropractic under this title, a person may not represent to the public by title, by description of services, methods, or

procedures, or otherwise, that the person is authorized to practice chiropractic in this State.

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

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

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

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

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

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

3-503.

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

- (1) A license; or
- (2) Any diploma or degree required under § 3-302 OR § 3-5A-06 of this title.

3-506.

(a) A person who practices or attempts to practice chiropractic **OR MASSAGE THERAPY** without a license in violation of § 3-501 of this subtitle or represents to the public in violation of § 3-502 of this subtitle that the person is authorized to practice chiropractic **OR MASSAGE THERAPY** is guilty of a misdemeanor and on conviction is subject to:

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

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

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

3-5A-01.

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

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

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

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

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

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

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

(f) (1) “Massage therapy” means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical

applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well-being.

(2) “Massage therapy” does not include:

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

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

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

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

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

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

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

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

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

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

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

The Board shall adopt regulations for the:

- and
- (1) [Certification] **LICENSURE** and practice of massage therapists;
 - (2) Registration and practice of massage practitioners.

3-5A-03.

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

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

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

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

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

[3-5A-04.

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

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

(3) Of the six members:

(i) Two shall be licensed chiropractors; and

(ii) Four shall be certified massage therapists.

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

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

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

[(a) (1)] Except as otherwise provided in this subtitle, an individual shall be:

[(i)] (1) [Certified] **LICENSED** by the Board before the individual may practice massage therapy in this State; or

[(ii)] (2) Registered by the Board before the individual may practice non-therapeutic massage in this State.

3-5A-05.

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

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

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

1. Otherwise] **OTHERWISE** has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days[; or

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

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

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

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

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

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

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

3-5A-06.

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

- (1) Is of good moral character;
- (2) Is at least 18 years old;

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

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

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

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

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

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

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

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

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

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

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

- (iii)
 - 1. Completes a Board approved program in the study of massage therapy; or
 - 2. Passes an examination approved by the Board.

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

3-5A-07.

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

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

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

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

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

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

2. PASSED AN EXAMINATION APPROVED BY THE BOARD; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The amount of the renewal fee.

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

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

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

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

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

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

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

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

[3–5A–11.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Willfully and knowingly:

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

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

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

(7) Provides professional services while:

(i) Under the influence of alcohol; or

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

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

(9) Is negligent in the practice of massage therapy;

(10) Is professionally incompetent;

(11) Has violated any provision of this subtitle;

(12) Submits a false statement to collect a fee;

(13) Is physically or mentally incompetent;

(14) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the [certificate holder] **LICENSEE** or registration holder is qualified to render because the individual is HIV positive;

(16) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control’s guidelines on universal precautions;

(17) Is habitually intoxicated;

(18) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;

(19) Fails to cooperate with a lawful investigation conducted by the Board;

(20) Engages in conduct that violates the professional code of ethics; or

(21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

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

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

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

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

[3–5A–10.] 3–5A–12.

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

3–5A–13.

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

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

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

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

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

(3) THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER PROVIDING MASSAGE THERAPY SERVICES APPEARS ON THE BILLING INVOICES, STATIONERY, AND ON ANY RECEIPT GIVEN TO A PATIENT;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2008.