

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10108-MGfqq-68 (02/28)

Short Title: Regulate Massage & Bodywork Therapy Estmts. (Public)

Sponsors: Representatives McNeill, Bert Jones, R. Turner, and Hurley (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF MASSAGE AND
3 BODYWORK THERAPY TO REGULATE MASSAGE AND BODYWORK THERAPY
4 ESTABLISHMENTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 90-621 reads as rewritten:

7 "§ 90-621. Declaration of purpose.

8 The purpose of this Article is to ensure the protection of the health, safety, and welfare of
9 the citizens of this State receiving massage and bodywork therapy services. This purpose is
10 achieved ~~by establishing~~by:

11 (1) Establishing education and testing standards that ensure competency in the
12 practice of massage and bodywork therapy. Mandatory licensure of those
13 engaged in the practice of massage and bodywork therapy assures the public
14 that each individual has satisfactorily met the standards of the profession and
15 continues to meet both the ethical and competency goals of the profession.

16 (2) Establishing standards for establishments that provide massage and
17 bodywork therapy services. Mandatory licensure of those who own or
18 operate massage and bodywork therapy establishments assures the public
19 that these establishments provide legal, professional services and employ
20 licensed massage and bodywork therapists who have satisfactorily met the
21 standards of the profession and continue to meet both the ethical and
22 competency goals of the profession."

23 SECTION 2. G.S. 90-622 reads as rewritten:

24 "§ 90-622. Definitions.

25 The following definitions apply in this Article:

26 (1) Accreditation. – Status granted to a postsecondary institution of higher
27 learning that has met standards set by an accrediting agency recognized by
28 the Secretary of the United States Department of Education. The
29 accreditation for massage and bodywork schools may be institutional or
30 programmatic in nature.

31 (1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.

32 (2) Board-approved school. – Any massage and bodywork therapy school or
33 training program in this State or another state that is not otherwise exempt
34 from Board approval, that has met the standards set forth in this Article, and
35 been granted approval by the Board.



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- 1 (2a) Business name. – The name under which the owner applies for the
2 establishment license to provide massage therapy, if different from the name
3 of the owner.
- 4 ~~(2a)~~(2b) Criminal history record check. – A report resulting from a request made
5 by the Board to the North Carolina Department of Public Safety for a history
6 of conviction of a crime, whether a misdemeanor or felony, that bears on an
7 applicant's fitness for licensure to practice massage and bodywork therapy.
- 8 (3) Massage and bodywork therapy. – Systems of activity applied to the soft
9 tissues of the human body for therapeutic, educational, or relaxation
10 purposes. The application may include:
- 11 a. Pressure, friction, stroking, rocking, kneading, percussion, or passive
12 or active stretching within the normal anatomical range of
13 movement.
- 14 b. Complementary methods, including the external application of water,
15 heat, cold, lubricants, and other topical preparations.
- 16 c. The use of mechanical devices that mimic or enhance actions that
17 may possibly be done by the hands.
- 18 (3a) Massage and bodywork therapy establishment. – Any duly licensed site or
19 premises in which massage and bodywork therapy is practiced. This term
20 does not include any of the following:
- 21 a. On-site massage performed at the location of the customer.
- 22 b. Stand-alone devices, such as chairs, that are operated by the
23 customer.
- 24 c. Establishments located within the confines of a hospital, nursing
25 home, or other similar establishment or facility licensed or otherwise
26 regulated by the Department of Health and Human Services.
- 27 d. Massage and bodywork therapy provided by a sole practitioner.
- 28 e. A student clinic operated by a Board-approved school or a massage
29 and bodywork therapy program offered by community colleges in
30 North Carolina that are accredited by the Southern Association of
31 Colleges and Schools, or massage and bodywork therapy programs
32 offered by a degree or diploma granting college or university
33 accredited by any accrediting agency that is recognized by the United
34 States Department of Education and licensed by the North Carolina
35 Community College System or The University of North Carolina
36 Board of Governors.
- 37 ~~(3a)~~(3b) Massage and bodywork therapy school. – Any educational institution
38 that conducts a training program or curriculum for a tuition charge, which is
39 intended to teach adults the knowledge, skills, and abilities necessary for the
40 safe, effective, and ethical practice of massage and bodywork therapy.
- 41 (4) Massage and bodywork therapist. – A person licensed under this Article.
- 42 (4a) Owner. – The person, sole proprietor, partnership, limited partnership, or
43 corporation that operates the massage and bodywork therapy establishment.
- 44 (5) Practice of massage and bodywork therapy. – The application of massage
45 and bodywork therapy to any person for a fee or other consideration.
- 46 (6) Sole practitioner. – A single licensed massage and bodywork therapist
47 offering massage or bodywork therapy services from a space the licensed
48 massage and bodywork therapist controls and from which only the licensed
49 massage and bodywork therapist offers and provides the services."

50 **SECTION 3.** The catch line of G.S. 90-623 reads as rewritten:

51 "**§ 90-623. License to practice required.**"

1 SECTION 4. The catch line of G.S. 90-624 reads as rewritten:

2 "**§ 90-624. Exemptions. Activities not requiring a license to practice.**"

3 SECTION 5. Subdivision (9) of G.S. 90-626 reads as rewritten:

4 "(9) Adopt, amend, or repeal any ~~rules of the following rules:~~

5 a. ~~Rules necessary to carry out the purposes of this Article and Article.~~

6 b. Rules necessary to carry out the duties and responsibilities of the
7 Board, including rules the following:

8 1. Rules related to the approval of massage and bodywork
9 therapy schools, continuing education providers,
10 examinations for licensure, and the practice of advanced
11 techniques or specialties, and ~~massage and bodywork therapy~~
12 establishments. specialties. Any rules adopted or amended
13 shall take into account the educational standards of national
14 bodywork and massage therapy associations and professional
15 organizations.

16 2. Rules related to massage and bodywork therapy
17 establishments."

18 SECTION 6. G.S. 90-628(b) reads as rewritten:

19 "(b) The Board may impose the following fees up to the amounts listed ~~below:~~below for
20 a license to practice massage and bodywork therapy:

- 21 (1) Application for license\$20.00
- 22 (2) Initial license fee150.00
- 23 (3) License renewal100.00
- 24 (4) Late renewal penalty75.00
- 25 (5) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008.
- 26 (6) Duplicate license25.00
- 27 (7) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008."

28 SECTION 7. G.S. 90-629 reads as rewritten:

29 "**§ 90-629. Requirements for ~~licensure.~~license to practice.**"

30 Upon application to the Board and the payment of the required fees, an applicant may be
31 licensed as a massage and bodywork therapist if the applicant meets all of the following
32 qualifications:

- 33 (1) Has obtained a high school diploma or equivalent.
- 34 (2) Is 18 years of age or older.
- 35 (3) Is of good moral character as determined by the Board.
- 36 (4) Has successfully completed a training program consisting of a minimum of
37 500 in-class hours of supervised instruction at a Board-approved school.
- 38 (5) Has passed a competency assessment examination that meets generally
39 accepted psychometric principles and standards and is approved by the
40 Board.
- 41 (6) Has submitted fingerprint cards in a form acceptable to the Board at the time
42 the license application is filed and consented to a criminal history record
43 check by the North Carolina Department of Public Safety.
- 44 (7) Demonstrates satisfactory proof of proficiency in the English language."

45 SECTION 8. G.S. 90-629.1 reads as rewritten:

46 "**§ 90-629.1. Criminal history record checks of applicants for ~~licensure.~~license to**
47 **practice and for ownership or operation of an establishment.**

48 (a) All applicants for licensure to practice massage and bodywork therapy or to operate
49 a massage and bodywork therapy establishment shall consent to a criminal history record
50 check. Refusal to consent to a criminal history record check may constitute grounds for the
51 Board to deny licensure to an applicant. The Board shall ensure that the State and national

1 criminal history of an applicant is checked. The Board shall be responsible for providing to the
2 North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a
3 form signed by the applicant consenting to the criminal record check and the use of fingerprints
4 and other identifying information required by the State or National Repositories, and any
5 additional information required by the Department of Public Safety. The Board shall keep all
6 information obtained pursuant to this section confidential.

7"

8 **SECTION 9.** The catch line of G.S. 90-630.1 reads as rewritten:

9 "**§ 90-630.1. Licensure to practice by endorsement.**"

10 **SECTION 10.** G.S. 90-632 is recodified as G.S. 90-630.5 and reads as rewritten:

11 "**§ 90-630.5. License renewal and Renewal of license to practice and license to operate**
12 **massage and bodywork therapy establishment; continuing education.**

13 (a) The license to practice and the license to operate a massage and bodywork therapy
14 establishment under this Article shall be renewed every two years.

15 (b) The continuing education requirement for the renewal of an initial license renewal
16 to practice is as follows:

17 (1) If the licensure period is two years or more, each licensee shall submit to the
18 Board evidence of the successful completion of at least 24 hours of study, as
19 approved by the Board, since the initial licensure application date in the
20 practice of massage and bodywork therapy.

21 (2) If the licensure period is less than two years, but more than one year, each
22 licensee shall submit to the Board evidence of the successful completion of
23 at least 12 hours of study, as approved by the Board, since the initial
24 licensure application date in the practice of massage and bodywork therapy.

25 (c) For subsequent renewals of a license renewals to practice, each licensee shall submit
26 to the Board evidence of the successful completion of at least 24 hours of study, as approved by
27 the Board, since the previous licensure renewal submission date in the practice of massage and
28 bodywork therapy."

29 **SECTION 11.** Article 36 of Chapter 90 of the General Statutes is amended by
30 adding new sections to read:

31 "**§ 90-632.10. Massage and bodywork therapy establishment license required.**

32 The Board shall license massage and bodywork therapy establishments in this State for the
33 purpose of protecting the health, safety, and welfare of the public. Unless otherwise exempt
34 from the Board licensure process, no individual, association, partnership, corporation, or other
35 entity shall open, operate, or advertise a massage and bodywork therapy establishment in this
36 State unless it has first been licensed by the Board. The Board shall maintain a list of licensed
37 massage and bodywork therapy establishments operating pursuant to this Article.

38 "**§ 90-632.11. Requirements for massage and bodywork therapy establishment licensure.**

39 (a) Any person who wishes to operate a massage and bodywork therapy establishment
40 shall obtain a license from the Board by submitting a massage and bodywork therapy
41 establishment licensure application accompanied by all of the following:

42 (1) The applicable fee set forth in G.S. 90-632.14.

43 (2) Proof of property damage and bodily injury liability insurance coverage in
44 the name of the owner or, if the establishment is operated under a business
45 name, in the name of both the owner and the business.

46 (3) Prior licensure and disciplinary history, including verifications from all
47 North Carolina licensing boards from which the owner holds or has held any
48 health related professional license.

49 (4) Fingerprint cards submitted in accordance with G.S. 90-629.1 at the time the
50 license application is filed and consented to a criminal history record check
51 by the Department of Public Safety.

- (5) Ownership information, including at least all of the following:
 - a. Type of ownership.
 - b. Name of owner.
 - c. Name of authorized representative.
 - d. Address of establishment.
 - e. Social Security number or federal tax identification number.
 - f. E-mail address.
 - g. Current phone number.
 - h. Hours of operation.

(6) Proof of good moral character as determined by the Board.

(7) Signature of all owners or authorized corporate representatives or both.

(8) A successfully completed self-evaluation inspection report demonstrating compliance with this section and any rules adopted pursuant to G.S. 90-632.13.

(9) Proof that the establishment employs, hires, or plans to employ or hire one or more massage and bodywork therapists who hold a current license from the Board.

(b) The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a corporation, the application shall be submitted in the name of the corporation and shall be signed by a corporate representative.

"§ 90-632.12. Operation of a massage and bodywork therapy establishment under a name different than the owner; advertisement.

(a) An owner may operate a licensed massage and bodywork therapy establishment under a name other than the name of the owner, provided such name is submitted to the Board on the application for licensure.

(b) Any advertisement by the massage and bodywork therapy establishment shall include the establishment's business name and shall comply with 21 NCAC 30 .0404.

"§ 90-632.13. Rules for massage and bodywork therapy establishment license.

The Board shall establish rules for the licensure of massage and bodywork therapy establishments. These rules shall include at least all of the following:

- (1) Requirements for adequate, safe, and sanitary facilities.
- (2) Requirements for compliance with local building code requirements, State fire safety codes, and State health inspection codes necessary to ensure the safe and effective practice of massage and bodywork therapy.
- (3) Requirements for retention of client and ownership records.
- (4) A description of the process used by the Board to approve massage and bodywork therapy establishment licenses.
- (5) Requirements for initial and periodic inspections of massage and bodywork therapy establishments.
- (6) Requirements for transfer of a massage and bodywork therapy establishment license.

"§ 90-632.14. Fees for massage and bodywork therapy establishment license.

(a) The Board may impose the following fees up to the amounts listed below for massage and bodywork therapy establishment licensure:

(1)	<u>Application for license</u>	<u>\$20.00</u>
(2)	<u>Initial license fee</u>	<u>150.00</u>
(3)	<u>License renewal</u>	<u>100.00</u>
(4)	<u>Late renewal penalty</u>	<u>75.00</u>
(5)	<u>Duplicate license</u>	<u>25.00</u>
(6)	<u>Inspection</u>	<u>of</u>
	<u>establishment.....</u>	<u>150.00</u>

1 (b) All fees listed in subsection (a) of this section shall be paid in the form of a cashier's
2 check, certified check, or money order made payable to the North Carolina Board of Massage
3 and Bodywork Therapy and shall be nonrefundable.

4 **"§ 90-632.15. Grounds for suspension, revocation, or refusal of massage and bodywork**
5 **therapy license; notice and hearing; judicial review.**

6 (a) The Board may deny, suspend, revoke, discipline, or refuse to approve a massage
7 and bodywork therapy establishment for any of the following reasons:

- 8 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
9 attempting to obtain a massage and bodywork therapy establishment license.
- 10 (2) Engaging in any act or practice in violation of any of the provisions of this
11 Article or of any of the rules adopted by the Board, or aiding, abetting, or
12 assisting any other person in the violation of the provisions of this Article or
13 rules adopted by the Board.
- 14 (3) Failure to require that its employees or independent contractors be currently
15 licensed by the Board.
- 16 (4) Operating a massage and bodywork therapy establishment without a license
17 from this Board.
- 18 (5) Engaging in conduct that could result in harm or injury to the public.
- 19 (6) The employment of fraud, deceit, or misrepresentation when communicating
20 with the general public, health care professionals, or other business
21 professionals.
- 22 (7) Falsely holding out a massage and bodywork therapy establishment as
23 licensed by this Board.
- 24 (8) Failure to allow authorized representatives of the Board to conduct
25 inspections of the massage and bodywork therapy establishment or refusing
26 to make available to the Board, following written notice to the massage and
27 bodywork therapy establishment, the requested information pertaining to the
28 requirements for approval set forth in this Article.
- 29 (9) Failure to notify the Board in writing within 30 days of any notification it
30 receives from any state, local or federal court or agency of a show cause
31 action, probation action, or denial of licensure or approval.
- 32 (10) The applicant for or holder of a massage and bodywork therapy license has
33 pleaded guilty, entered a plea of nolo contendere, or has been found guilty of
34 a crime involving moral turpitude by a judge or jury in any state or federal
35 court.

36 (b) A refusal to issue, refusal to renew, or suspension or revocation of a massage and
37 bodywork therapy establishment license under this section shall be made in accordance with
38 Chapter 150B of the General Statutes.

39 **"§ 90-632.16. Unlicensed massage and bodywork therapy prohibited at massage and**
40 **bodywork therapy establishments.**

41 A massage and bodywork therapy establishment shall not employ or contract with any
42 person in this State to provide massage and bodywork therapy unless that person holds a
43 current license to practice massage and bodywork therapy issued pursuant to this Article.

44 **"§ 90-632.17. Sexual activity prohibited.**

45 (a) Sexual activity by any person or persons in any massage and bodywork therapy
46 establishment is unlawful and prohibited.

47 (b) No owner shall engage in or permit any person or persons to engage in sexual
48 activity in the owner's massage and bodywork therapy establishment. No owner shall engage in
49 or permit any person or persons to use the owner's massage and bodywork therapy
50 establishment to make arrangements to engage in sexual activity in any other place.

1 **"§ 90-632.18. Enforcement; injunctive relief against massage and bodywork therapy**
2 **establishments.**

3 The Board may utilize the enforcement and injunctive relief set forth in G.S.90-634 and
4 assess civil penalties and disciplinary costs as provided in G.S. 90-634.1 to address violations
5 of G.S. 90-632.10 through G.S. 90-632.17, any rules adopted pursuant to G.S. 90-632.13, or
6 any other laws or rules applicable to the operation of a a massage and bodywork therapy
7 establishment."

8 **SECTION 12.** G.S. 90-634 reads as rewritten:

9 **"§ 90-634. Enforcement; injunctive relief.**

10 (a) It is unlawful for a person not licensed or exempted under this Article to engage in
11 any of the following:

- 12 (1) Practice of massage and bodywork therapy.
13 (2) Advertise, represent, or hold out himself or herself to others to be a massage
14 and bodywork therapist.
15 (3) Use any title descriptive of any branch of massage and bodywork therapy, as
16 provided in G.S. 90-623, to describe his or her practice.

17 (b) A person who violates subsection (a) of this section shall be guilty of a Class 1
18 misdemeanor.

19 (b1) Unless exempt from the approval process, it is unlawful for an individual,
20 association, partnership, corporation, or other entity to open, operate, or advertise a massage
21 and bodywork therapy school without first having obtained the approval required by
22 G.S. 90-631.1.

23 (b2) An individual, association, partnership, corporation, or other entity that violates
24 subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

25 (b3) It is unlawful for a person, individual, association, partnership, corporation, or other
26 entity to do any of the following:

- 27 (1) Employ, hire, engage, or otherwise contract with a person who is not
28 licensed or exempted under this Article to provide massage and bodywork
29 therapy services to the public.
30 (2) Aid and abet any person not licensed or exempted under this Article in the
31 practice of massage and bodywork therapy.
32 (3) Advertise, represent, or hold out any person not licensed or exempted under
33 this Article to others as a massage and bodywork therapist.
34 (4) Describe the practice of any person not licensed or exempted under this
35 Article, or use any title descriptive of any branch of massage and bodywork
36 therapy to reference any such person in violation of G.S. 90-623.

37 (b4) A person who violates subsection (b3) of this section shall be guilty of a Class 1
38 misdemeanor.

39 (c) The Board may make application to superior court for an order enjoining a violation
40 of this Article. Upon a showing by the Board that a person, association, partnership,
41 corporation, or other entity has violated or is about to violate this Article, the court may grant
42 an injunction, restraining order, or take other appropriate action."

43 **SECTION 13.** This act becomes effective October 1, 2017.