

1 HB47
2 125693-2
3 By Representative Sanderford
4 RFD: Boards, Agencies and Commissions
5 First Read: 01-MAR-11
6 PFD: 02/25/2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ENROLLED, An Act,

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Massage Therapy with certain modifications; to amend Sections 34-43-3 and 34-43-6, Code of Alabama 1975, so as to delete the requirement that a massage therapy school be accredited by the State Department of Education; and to require representation on the board from each state congressional district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Alabama Board of Massage Therapy, with the additional recommendations for statutory change as set out in Section 3.

Section 2. The existence and functioning of the Alabama Board of Massage Therapy, created and functioning pursuant to Sections 34-43-1 to 34-43-21, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-43-3 and 34-43-6 of the Code of Alabama 1975, are amended to read as follows:

"§34-43-3.

"For purposes of this chapter, the following terms shall have the following meanings:

1 "(1) ADVERTISE. Distributing a card, flier, sign, or
2 device to any person or organization, or allowing any sign or
3 marking on any building, radio, television, or by advertising
4 by any other means designed to attract public attention.

5 "(2) BOARD. The Alabama Board of Massage Therapy
6 created pursuant to this chapter.

7 "(3) BOARD-APPROVED MASSAGE THERAPY SCHOOL. A school
8 where massage therapy is taught which is one of the following:

9 "a. If located in Alabama is ~~accredited by the~~
10 ~~Department of Education and~~ approved by the board as meeting
11 the minimum established standards of training and curriculum
12 as determined by the board.

13 "b. If located outside of Alabama is recognized by
14 the board and by a regionally recognized professional
15 accrediting body.

16 "c. Is a postgraduate training institute accredited
17 by the Commission on Accreditation for Massage Therapy.

18 "(4) ESTABLISHMENT. A site, premises, or business
19 where massage therapy is practiced by a licensed massage
20 therapist.

21 "(5) EXAMINATION. A National Certification For
22 Therapeutic Massage and Bodywork Examination administered by
23 an independent agency or another nationally or internationally
24 accredited exam administered by an independent agency per
25 approval of the board. The examination will be accredited by

1 the National Committee for Certifying Agencies. The board
2 retains the right to administer a written, oral, or practical
3 examination.

4 "(6) LICENSE. The credential issued by the board
5 which allows the licensee to engage in the safe and ethical
6 practice of massage therapy.

7 "(7) MASSAGE THERAPIST. A person licensed pursuant
8 to this chapter who practices or administers massage therapy
9 or touch therapy modalities to a patron for compensation.

10 "(8) MASSAGE THERAPY INSTRUCTOR. A licensed massage
11 therapist approved by the board to teach the practice of
12 massage therapy.

13 "(9) PERSON. Any individual, firm, corporation,
14 partnership, organization, association, or other legal entity.

15 "(10) SEXUALLY ORIENTED BUSINESS. A sex parlor,
16 massage parlor, nude studio, modeling studio, love parlor,
17 adult bookstore, adult movie theater, adult video arcade,
18 adult motel, or other commercial enterprise which has as its
19 primary business the offering for sale, rent, or exhibit, or
20 the exhibit of, items or services intended to provide sexual
21 stimulation or sexual gratification to the customer.

22 "(11) STUDENT OF MASSAGE THERAPY. Any person
23 currently enrolled in an Alabama massage therapy school
24 program approved by the board.

1 "(12) TEMPORARY PERMIT. A temporary permit issued at
2 the request of a massage therapist who is qualified according
3 to the Alabama massage therapy law prior to approval by the
4 board and not to exceed six months.

5 "(13) THERAPEUTIC MASSAGE AND RELATED TOUCH THERAPY
6 MODALITIES. The mobilization of the soft tissue which may
7 include skin, fascia, tendons, ligaments, and muscles, for the
8 purpose of establishing and maintaining good physical
9 condition. The term shall include effleurage, petrissage,
10 tapotement, compression, vibration, stretching, heliotherapy,
11 superficial hot and cold applications, topical applications,
12 or other therapy which involves movement either by hand,
13 forearm, elbow, or foot, for the purpose of therapeutic
14 massage. Massage therapy may include the external application
15 and use of herbal or chemical preparations and lubricants such
16 as salts, powders, liquids, nonprescription creams, mechanical
17 devises such as T-bars, thumpers, body support systems, heat
18 lamps, hot and cold packs, salt glow, steam cabinet baths or
19 hydrotherapy. The term includes any massage, movement therapy,
20 massage technology, myotherapy, massotherapy, oriental massage
21 techniques, structural integration, or polarity therapy. The
22 term shall not include laser therapy, microwave, injection
23 therapy, manipulation of the joints, or any diagnosis or
24 treatment of an illness that normally involves the practice of
25 medicine, chiropractic, physical therapy, podiatry, nursing,

1 occupational therapy, veterinary, acupuncture, osteopathy,
2 orthopedics, hypnosis, or naturopathics.

3 "§34-43-6.

4 "(a) There is created the Alabama Board of Massage
5 Therapy. The purpose of the board is to protect the health,
6 safety, and welfare of the public by ensuring that licensed
7 massage therapists, massage therapy schools, and massage
8 therapy instructors meet prescribed standards of education,
9 competency, and practice. To accomplish this mission, the
10 board shall establish standards pursuant to this chapter to
11 complete all board functions in a timely and effective manner
12 and to provide open and immediate access to all relevant
13 public information. The board shall communicate its
14 responsibilities and services to the public as part of its
15 consumer protection duties. The board shall develop and
16 implement a long range plan to ensure effective regulation and
17 consumer protection.

18 "(b) The board shall consist of seven members
19 appointed by the Governor, subject to confirmation by the
20 Senate. No member of the board shall serve more than two full
21 consecutive terms. The members initially appointed to the
22 board shall be appointed not later than July 16, 1996. Five of
23 the members initially appointed to the board shall have been
24 actively engaged in the practice of massage therapy for not
25 less than three consecutive years prior to the date of their

1 appointment to the board. Successor members to these initial
2 five appointees shall be licensees of the board. Two members
3 shall be public members who shall not be licensed, nor have
4 been licensed in the past, and shall not have any direct
5 financial interest in the massage therapy profession. Each
6 board member shall be a high school graduate or shall have
7 received a graduate equivalency diploma. Each board member
8 shall be selected upon personal merit and qualifications, not
9 per membership or affiliation with an association. Each board
10 member shall be a citizen of the United States and this state
11 and a resident of this state for two years immediately
12 preceding the appointment. The membership of the board shall
13 be inclusive and reflect the racial, gender, geographic,
14 urban/rural, and economic diversity of the state. As the terms
15 of members serving on the effective date of the act amending
16 this subsection expire, or as vacancies occur, new members
17 shall be appointed so that not more than one member from each
18 United States Congressional District is appointed to serve at
19 the same time.

20 "(c) Of the initial seven appointees to the board,
21 three members shall be appointed for terms ending September
22 30, 1997, and four members shall be appointed for terms ending
23 September 30, 1999. Thereafter, successors shall be appointed
24 for terms of four years, each term expiring on September 30.

1 "(d) Vacancies on the board occurring prior to the
2 expiration of a term shall be filled by the Governor within 30
3 days of the vacancy to serve for the remainder of the
4 unexpired term. Each member of the board shall serve until his
5 or her successor has been duly appointed and qualified.

6 "(e) At the first meeting, and annually thereafter
7 in the month of October, the board shall elect a chair and
8 vice chair from its membership.

9 "(f) The board shall hold its first meeting within
10 30 days after the initial members are appointed. The board
11 shall hold meetings during the year as it determines
12 necessary, two of which shall be the biannual meetings for the
13 purpose of reviewing license applications. Additional meetings
14 may be held at the discretion of the chair or upon written
15 request of any three members of the board. A quorum of the
16 board shall be a majority of the current appointed board
17 members.

18 "(g) Board members shall not receive compensation
19 for their services, but shall receive the same per diem and
20 allowance as provided to state employees for each day the
21 board meets and conducts business.

22 "(h) The board shall promulgate the rules necessary
23 to implement this chapter pursuant to the Administrative
24 Procedure Act.

1 "(i) The board may employ, and at its pleasure
2 discharge, an executive secretary and other officers and
3 employees which may be necessary, including an attorney, to
4 implement this chapter. The board shall also outline the
5 duties and fix the compensation and expense allowances of the
6 employees.

7 "(j) An affirmative vote of a majority of the
8 members of the board shall be required to grant, suspend, or
9 revoke a license to practice massage therapy or a license to
10 operate a massage therapy establishment.

11 "(k) The board shall be financed only from income
12 accruing to it from fees, licenses, other charges and funds
13 collected by it, and any monies that are appropriated to it by
14 the Legislature.

15 "(l) Each board member shall be accountable to the
16 Governor for the proper performance of his or her duties as a
17 member of the board. The board shall report to the Governor
18 annually and at other times as requested by the Governor. The
19 Governor shall investigate any complaints or unfavorable
20 reports concerning the actions of the board and take
21 appropriate action thereon, including removal of any board
22 member for misfeasance, malfeasance, neglect of duty,
23 commission of a felony, incompetence, or permanent inability
24 to perform official duties. A board member may be removed at

1 the request of the board after failing to attend two
2 consecutive properly noticed meetings.

3 "(m) Members of the board are immune from liability
4 for all good faith acts performed in the execution of their
5 duties as members of the board.

6 "(n) Appointees to the board shall take the
7 constitutional oath of office and file it in the office of the
8 Governor before undertaking any duties as a board member. Upon
9 receiving the oath, the Governor shall issue a certificate of
10 appointment to each appointee."

11 Section 4. The Legislature concurs in the
12 recommendations of the Sunset Committee as provided in
13 Sections 1, 2, and 3.

14 Section 5. This act shall become effective
15 immediately upon its passage and approval by the Governor, or
16 its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 29-MAR-11.

Greg Pappas
Clerk

Senate	14-APR-11	Amended and Passed
House	21-APR-11	Concurred in Sen- ate Amendment