



AN ACT LICENSING AND REGULATING MASSAGE THERAPISTS; ESTABLISHING A BOARD OF MASSAGE THERAPISTS; PROVIDING RULEMAKING AUTHORITY FOR THE BOARD; ESTABLISHING QUALIFICATIONS FOR LICENSURE; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Short title.** [Sections 1 through 9] may be cited as the "Massage Therapy Licensing Act".

**Section 2. Purpose.** (1) The legislature finds that the practice of massage therapy affects the health, safety, and welfare of the people of this state and declares that the practice of massage therapy contributes to choice in health care.

(2) It is the purpose of [sections 1 through 9] to regulate the massage therapy profession, to create a board of massage therapy that will issue massage therapy licenses in accordance with [sections 1 through 9] and the board's rules, and to define the terminology describing competencies of the massage therapy profession.

**Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

- (1) "Board" means the board of massage therapy provided for in [section 10].
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Massage therapist", "licensed massage therapist", "L.M.T.", "masseur", or "masseuse" means a person who is licensed by the board to practice massage therapy. The terms are equivalent terms, and any derivation of the phrases or any letters implying the phrases are equivalent terms. Any reference to any one of the terms in [sections 1 through 9] includes the others.

(4) (a) (i) "Massage therapy" when provided by a massage therapist means the application of a system of structured touch, pressure, positioning, or holding to soft tissues of the body, Swedish massage, effleurage, petrissage, tapotement, percussion, friction, vibration, compression, passive and active stretching or movement within the normal anatomical range of motion, the external application of water, heat, cold, lubricants, salts, skin

brushing, or other topical preparations not classified as prescription drugs, providing information for self-care stress management, and the determination of whether massage is contraindicated and whether referral to another health care practitioner is recommended.

(ii) The techniques described in subsection (4)(a)(i) must be applied by the massage therapist through the use of hands, forearms, elbows, knees, or feet or through the use of hand-held tools that mimic or support the action of the hands and are primarily intended to enhance or restore health and well-being by promoting pain relief, stress reduction, and relaxation.

(b) The term does not include providing examinations for the purpose of diagnosis, providing treatments that are outside the scope of massage therapy, or attempts to adjust, manipulate, or mobilize any articulations of the body or spine by the use of high-velocity, low-amplitude thrusting force, exercise, exercise instruction or prescription, or the use of tape when applied to restrict joint movement, manual or mechanical traction when applied to the spine or extremities for the purposes of joint mobilization or manipulation, injection therapy, laser therapy, microwave diathermy, electrical stimulation, ultrasound, iontophoresis, or phonophoresis.

**Section 4. Exemptions -- rules.** (1) The provisions of [sections 1 through 9] do not limit or regulate the scope of practice of any other profession licensed under the laws of this state, including but not limited to medicine, dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine, occupational therapy, naturopathic medicine, cosmetology, manicuring, barbering, esthetics, electrology, professional counseling, social work, psychology, or athletic training.

(2) A continuing education course instructor is not required to be licensed as a massage therapist.

(3) A massage therapy student, when enrolled in a board-approved program and while practicing the skills of massage therapy designated as a school-sanctioned activity and under the supervision of a licensed massage therapist, is not required to be licensed.

(4) The provisions of [sections 1 through 9] do not limit or regulate the practice of Native American traditional healing or faith healing.

(5) (a) The provisions of [sections 1 through 9] do not limit or regulate the practice of any person who uses:

(i) touch, words, and directed movement to deepen awareness of existing patterns of movement in the body, as well as to suggest new possibilities of movement. Exempt practices under this subsection (5)(a)(i)

include but are not limited to the Feldenkrais method of somatic education, the Trager approach to movement education, and body-mind centering.

(ii) touch to affect the human energy systems, energy meridians, or energy fields. Exempted practices under this subsection (5)(a)(ii) include but are not limited to polarity bodywork therapy, Asian bodywork therapy, acupuncture, jin shin do, qigong, reiki, shiatsu, and tui na.

(iii) touch to effect change on the integration of the structure of the physical body. Exempt practices under this subsection (5)(a)(iii) include but are not limited to the Rolf method of structural integration, Rolfing, and Hellerwork.

(iv) touch to affect the reflex areas located in the hands, feet, and outer ears. Exempt practices under this subsection (5)(a)(iv) include but are not limited to reflexology.

(b) The exemptions in subsection (5)(a) apply only if:

(i) the person is recognized by or meets the established requirements of either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimum level of training, demonstration of competence, and adherence to ethical standards; and

(ii) the person's services are not designated as or implied to be massage therapy.

**Section 5. Powers and duties of board -- rulemaking authority.** The board shall:

- (1) adopt rules necessary or proper to administer and enforce [sections 1 through 9];
- (2) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;
- (3) adopt rules establishing reasonable requirements for continuing education, which must require 12 hours of continuing education to be completed in each 2-year period;
- (4) meet as often as necessary for the conduct of business but at least twice a year; and
- (5) take disciplinary action necessary to protect the public as provided for in Title 37, chapter 1.

**Section 6. License required -- enjoining unlawful practice.** (1) As of July 1, 2010, a person who is not eligible for a license under [section 8] may not practice or purport to practice massage therapy without first obtaining a license under the provisions of [section 7].

(2) A person who is not licensed as a massage therapist under this section or [section 8], whose license

has been suspended or revoked, or whose license has lapsed and has not been revived may not use the words or letters "massage therapist", "licensed massage therapist", "L.M.T.", "masseur", or "masseuse" or any other letters, words, or insignia indicating or implying that the person is a licensed massage therapist or in any way, orally, in writing, or in print or by sign, directly or by implication, purport to be a massage therapist. A person who knowingly violates the provisions of this subsection is guilty of a misdemeanor as provided in [section 9].

**Section 7. Qualifications for licensure.** (1) To be eligible for licensure as a massage therapist as provided in [section 6], an applicant:

- (a) shall submit an application on a form provided by the department;
- (b) shall include with the application the application fee set by the board;
- (c) must possess a high school diploma or its equivalent;
- (d) must be at least 18 years of age; and
- (e) must be of good moral character.

(2) The applicant, in addition to the requirements established in subsection (1), is required to:

(a) successfully complete a massage therapy program of a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor and receive a passing score on an examination prescribed by the board; or

(b) possess an equivalent current license, certification, or registration in good standing from another state.

**Section 8. Initial licensure -- grandfather clause.** (1) As of July 1, 2010, the board shall issue a massage therapy license to an applicant who applies or has applied for a license by paying the application fee and by providing a signed affidavit to the board that the applicant has engaged in the practice of massage therapy for at least 100 hours in Montana prior to applying for a massage therapy license under this section and that the applicant meets the requirements of [section 7(1)(a), (1)(b), (1)(d), and (1)(e)]. The board shall by rule establish the application fee not later than January 1, 2010.

(2) (a) A license issued under this section is valid for the same initial period as a license issued under [section 7] and is subject to the same renewal requirements and renewal fees as a license issued under [section

7].

(b) A person may not apply for licensure under this section after July 1, 2012.

**Section 9. Penalty.** Any person who knowingly violates any provisions of [sections 1 through 9] is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for a term of not more than 6 months, or both.

**Section 10. Board of massage therapy.** (1) There is a board of massage therapy.

(2) The board consists of five members appointed by the governor with the consent of the senate. The members are:

(a) one representative of the public who is not a medical practitioner or an owner of a school that educates massage therapists and is not engaged in or directly connected with the practice of massage therapy;

(b) one member who is a licensed health care provider in good standing in Montana and who is not an owner of a school that educates massage therapists; and

(c) three massage therapists, none of whom may be an owner of a school that educates massage therapists, who have been actively engaged in the practice of massage therapy for at least 3 years prior to being appointed to the board. None of the three massage therapists may belong to the same national professional association. After the initial appointments are made to establish the board, each of the three members must be licensed as a massage therapist under [sections 1 through 9].

(3) Members shall serve 4-year, staggered terms. The governor may remove a member from the board for neglect of duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(4) The governor shall make the initial appointments to the board as follows:

(a) one person who is a massage therapist to serve a 2-year term;

(b) one person who is a massage therapist to serve a 3-year term; and

(c) one person who is a massage therapist to serve a 4-year term.

(5) At the expiration of terms provided in subsection (4), the governor shall appoint the person designated to fill each position to a 4-year term.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

**Section 11. Codification instruction.** (1) [Sections 1 through 9] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

(2) [Section 10] is intended to be codified as an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 10].

**Section 12. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0662, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

HOUSE BILL NO. 662

INTRODUCED BY E. ARNTZEN

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