

**SENATE BILL NO. 188**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY SENATORS EGAN, Ellis

Introduced: 2/21/14

Referred: Labor and Commerce

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the Board of Massage Therapists; relating to the licensing of  
2 massage therapists; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

5 (39) Board of Massage Therapists (AS 08.61.010).

6 \* **Sec. 2.** AS 08.02.010(a) is amended to read:

7 (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-  
8 language pathologist licensed under AS 08.11, a person licensed in the state as a  
9 chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a  
10 dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, **a massage**  
11 **therapist licensed under AS 08.61**, a marital and family therapist licensed under  
12 AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife  
13 certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under  
14 AS 08.72, a licensed pharmacist under AS 08.80, a physical therapist or occupational

1 therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social  
 2 worker licensed under AS 08.95, shall use as professional identification appropriate  
 3 letters or a title after that person's name that represents the person's specific field of  
 4 practice. The letters or title shall appear on all signs, stationery, or other advertising in  
 5 which the person offers or displays personal professional services to the public. In  
 6 addition, a person engaged in the practice of medicine or osteopathy as defined in  
 7 AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses,  
 8 treats, tests, or counsels other persons in relation to human health or disease and uses  
 9 the letters "M.D." or the title "doctor" or "physician" or another title that tends to show  
 10 that the person is willing or qualified to diagnose, treat, test, or counsel another  
 11 person, shall clarify the letters or title by adding the appropriate specialist designation,  
 12 if any, such as "dermatologist," [,] "radiologist," [,] "audiologist," [,] "naturopath," [,]  
 13 or the like.

14 \* **Sec. 3.** AS 08.03.010(c) is amended by adding a new paragraph to read:

15 (22) Board of Massage Therapists (AS 08.61.010) - June 30, 2018.

16 \* **Sec. 4.** AS 08 is amended by adding a new chapter to read:

17 **Chapter 61. Massage Therapists.**

18 **Sec. 08.61.010. Board established.** The Board of Massage Therapists is  
 19 established in the department. The board consists of five members appointed by the  
 20 governor as follows:

21 (1) four licensed massage therapists who have been engaged in the  
 22 practice of massage therapy in the state for the three years immediately preceding  
 23 appointment and who shall remain actively engaged in the practice of massage therapy  
 24 while serving on the board; not more than one member appointed under this paragraph  
 25 may have an ownership or partnership interest in a massage school; and

26 (2) one public member; the governor may not appoint as a public  
 27 member

28 (A) a licensed health care provider;

29 (B) an employee of the state; or

30 (C) a current or former member of another occupational  
 31 licensing board established under AS 08.

1           **Sec. 08.61.020. Duties and powers of board.** In addition to the duties  
2 specified in AS 08.01, the board shall

3                   (1) provide forms for applications, licenses, permits, certificates, and  
4 other papers and records;

5                   (2) provide for the examination of applicants by the board or through a  
6 nationally recognized competency examination approved by the board and issue  
7 licenses to applicants the board finds qualified;

8                   (3) adopt regulations governing

9                           (A) licensing of massage therapists; and

10                           (B) the practice of massage therapy;

11                   (4) establish standards of professional competence and ethical conduct  
12 for massage therapists;

13                   (5) establish standards for continuing education for massage therapists;  
14 standards adopted by the board under this paragraph must allow for approval of  
15 Internet-based continuing education courses;

16                   (6) make available to the public a list of massage therapists licensed  
17 under this chapter;

18                   (7) determine which states have educational and licensing  
19 requirements equivalent to the requirements of this state;

20                   (8) enforce the provisions of this chapter and adopt and enforce  
21 regulations necessary to implement this chapter; and

22                   (9) approve on or more nationally recognized competency  
23 examinations and publish and periodically update the list of approved examinations.

24           **Sec. 08.61.030. Qualifications for license.** The board shall issue a license to  
25 practice massage therapy to a person who

26                   (1) applies on a form provided by the board;

27                   (2) pays the fees established under AS 08.61.090;

28                   (3) furnishes evidence satisfactory to the board that the person has  
29 completed a course of study of at least 500 hours of in-class supervised instruction and  
30 clinical work from an approved massage school;

31                   (4) is 18 years of age or older;

1 (5) has been fingerprinted and has provided the fees required by the  
2 Department of Public Safety under AS 12.62.160 for criminal justice information and  
3 a national criminal history record check; the fingerprints and fees shall be forwarded  
4 to the Department of Public Safety to obtain a report of criminal justice information  
5 under AS 12.62 and a national criminal history record check under AS 12.62.400;

6 (6) has a current cardiopulmonary resuscitation certification;

7 (7) has received at least four hours of safety education covering  
8 bloodborne pathogens and universal precautions in the two years preceding the  
9 application for the license; in this paragraph, "bloodborne pathogens" has the meaning  
10 given in AS 18.15.450;

11 (8) has successfully completed a nationally recognized competency  
12 examination approved by the board; and

13 (9) has not been convicted of, or pled guilty or no contest to, a felony  
14 or a crime involving moral turpitude, or who has been convicted of, or pled guilty or  
15 no contest to, a felony or a crime involving moral turpitude if the board finds that the  
16 conviction does not affect the person's ability to practice competently and safely.

17 **Sec. 08.61.040. Licensure by credentials.** The board shall issue a license to  
18 practice massage therapy to a person who

19 (1) is 18 years of age or older;

20 (2) applies on a form provided by the board;

21 (3) pays the fees established under AS 08.61.090;

22 (4) has submitted the person's fingerprints and the fees required by the  
23 Department of Public Safety under AS 12.62.160 for criminal justice information and  
24 a national criminal history record check; the fingerprints and fees shall be forwarded  
25 to the Department of Public Safety to obtain a report of criminal justice information  
26 under AS 12.62 and a national criminal history record check under AS 12.62.400;

27 (5) is not the subject of an unresolved complaint or disciplinary action  
28 before a regulatory authority in this state or another jurisdiction;

29 (6) has not had a certificate or license to practice massage therapy  
30 revoked, suspended, or voluntarily surrendered in this state or another jurisdiction;

31 (7) has not been convicted of, or pled guilty or no contest to, a felony

1 or a crime involving moral turpitude, or has been convicted of, or pled guilty or no  
 2 contest to, a felony or a crime involving moral turpitude if the board finds that the  
 3 conviction does not affect the person's ability to practice competently and safely; and

4 (8) is currently

5 (A) licensed to practice massage therapy in another state or  
 6 country that has licensing requirements that are substantially equal to or greater  
 7 than the requirements of this state; or

8 (B) certified by the National Certification Board for  
 9 Therapeutic Massage and Bodywork, or a similar entity approved by the board.

10 **Sec. 08.61.050. Standards for license renewal.** The board shall renew a  
 11 license issued under this chapter to a licensee who

12 (1) pays the required fee;

13 (2) meets the continuing education requirements established by the  
 14 board; and

15 (3) has not been convicted of, or pled guilty or no contest to, a felony  
 16 or a crime involving moral turpitude, or has been convicted of, or pled guilty to or no  
 17 contest to a felony or crime involving moral turpitude if the board finds that the  
 18 conviction does not affect the person's ability to practice competently and safely.

19 **Sec. 08.61.060. Grounds for imposition of disciplinary sanctions.** After a  
 20 hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person  
 21 licensed under this chapter if the board finds that the person

22 (1) secured a license through deceit, fraud, or intentional  
 23 misrepresentation;

24 (2) engaged in deceit, fraud, or intentional misrepresentation in the  
 25 course of providing massage therapy services or engaging in massage therapy;

26 (3) advertised massage therapy services in a false or misleading  
 27 manner;

28 (4) has been convicted of a felony or another crime that affects the  
 29 licensee's ability to continue to practice competently and safely;

30 (5) intentionally or negligently engaged in, or permitted a person under  
 31 the licensed massage therapist's supervision to engage in, client care that did not

1 conform to minimum professional standards, whether or not actual injury to the client  
2 occurred;

3 (6) failed to comply with a provision of this chapter, a regulation  
4 adopted under this chapter, or an order of the board;

5 (7) continued to practice after becoming unfit because of

6 (A) professional incompetence; or

7 (B) addiction or severe dependency on alcohol or another drug

8 that impairs the ability to practice safely; or

9 (8) engaged in unethical conduct or sexual misconduct in connection  
10 with the delivery of massage therapy services to a client.

11 **Sec. 08.61.070. Practice of massage therapy without license prohibited.** (a)

12 A person may not practice massage therapy or represent that the person is a massage  
13 therapist unless the person holds a valid license under this chapter. In this subsection,  
14 a person represents that the person is a massage therapist when the person adopts or  
15 uses a title or description of services that incorporates one or more of the following  
16 terms or designations: massage, massage practitioner, massage therapist, massage  
17 therapy, therapeutic massage, massage technician, massage technology, massagist,  
18 masseur, masseuse, myotherapist, myotherapy, or another term describing a traditional  
19 European or contemporary western massage method, or a derivation of a term that  
20 implies a massage technique or method.

21 (b) A person who knowingly violates (a) of this section is guilty of a class B  
22 misdemeanor.

23 **Sec. 08.61.080. Exceptions to application of chapter.** This chapter does not  
24 apply to a

25 (1) person licensed in the state under a statute outside this chapter who  
26 performs massage therapy within the scope of practice for which the person's license  
27 was issued;

28 (2) person who, while acting in an official capacity as an employee of  
29 the United States government, performs massage therapy;

30 (3) person who is licensed, registered, or certified in another state,  
31 territory, the District of Columbia, or a foreign country while the person is temporarily

1 (A) practicing massage therapy in this state in connection with  
2 teaching a course related to massage therapy; or

3 (B) consulting with a person licensed under this chapter;

4 (4) student enrolled in an approved massage school or course of study  
5 who is completing a clinical requirement for graduation under the general supervision  
6 of a person licensed under this chapter if the student is clearly identified as a student  
7 while performing massage therapy services on members of the public and is not  
8 compensated for the massage therapy services;

9 (5) person only performing massage therapy on members of the  
10 person's family;

11 (6) person only performing techniques that do not involve contact with  
12 the body of another person;

13 (7) person only performing techniques that involve resting the hands  
14 on the surface of the body of another person without delivering pressure to or  
15 manipulating the person's soft tissues;

16 (8) person only performing services such as herbal body wraps, skin  
17 exfoliation treatments, or the topical application of products to the skin for  
18 beautification purposes when the services do not involve direct manipulation of the  
19 soft tissues of the body;

20 (9) person only performing massage therapy for the athletic  
21 department of an institution maintained by public funds of the state or a political  
22 subdivision of the state or only practicing massage therapy for the athletic department  
23 of a school or college approved by the board using recognized national professional  
24 standards;

25 (10) person engaged only in the practice of structural integration for  
26 restoring postural balance and functional ease by integrating the body in gravity using  
27 a system of fascial manipulation, awareness, and education developed by Ida P. Rolf;

28 (11) person using only touch, words, and directed movement to deepen  
29 awareness of existing patterns of movement in the body as well as to suggest new  
30 possibilities of movement, including the Feldenkrais method of somatic education, the  
31 Trager approach to movement education, and body-mind centering;

1 (12) person using only touch to affect the energy systems, acupoints,  
 2 or chi meridians of the human body, including polarity, polarity therapy, polarity  
 3 bodywork therapy, Asian bodywork therapy, acupressure, jin shin do, chi gong, reiki,  
 4 and shiatsu;

5 (13) person performing only the traditional practices of Native  
 6 American traditional healers;

7 (14) person practicing only the manipulation of the soft tissues of the  
 8 hands, feet, or ears and not holding out to be a massage therapist.

9 **Sec. 08.61.090. Fees.** The department shall set fees under AS 08.01.065 for  
 10 application, license issuance, license renewal, and investigation under this chapter.

11 **Sec. 08.61.100. Definitions.** In this chapter,

12 (1) "approved massage school" means a massage therapy school or  
 13 program that

14 (A) has an authorization to operate from the Alaska  
 15 Commission on Postsecondary Education or a similar entity in another state; or

16 (B) is accredited by a nationally recognized accrediting agency;

17 (2) "board" means the Board of Massage Therapists;

18 (3) "massage therapist" means a person licensed under this chapter;

19 (4) "practice of massage therapy" means the provision, for  
 20 compensation, of a service involving the systematic manipulation and treatment of the  
 21 soft tissues, including the muscular and connective tissues of the human body, to  
 22 enhance the functions of those tissues and promote relaxation and well-being; in this  
 23 paragraph, "manipulation and treatment"

24 (A) includes manual techniques applied with the intent to  
 25 physically affect local soft tissues, such as pressure, friction, stroking,  
 26 percussion, kneading, vibration, muscular assessment by palpation, range of  
 27 motion for purposes of demonstrating muscle exertion for muscle flexibility,  
 28 nonspecific stretching, and application of superficial heat, cold, water,  
 29 lubricants, or salts;

30 (B) does not include diagnosis, the prescription of drugs or  
 31 medicines, attempts to manipulate any articulation of the body or spine, or



1 mobilization of these articulations by use of a thrusting force.

2 \* **Sec. 5.** AS 12.62.400(a) is amended by adding a new paragraph to read:

3 (16) licensure as a massage therapist under AS 08.61.

4 \* **Sec. 6.** AS 29.10.200 is amended by adding a new paragraph to read:

5 (63) AS 29.35.146 (licensing of massage therapists).

6 \* **Sec. 7.** AS 29.35 is amended by adding a new section to read:

7 **Sec. 29.35.146. Licensing of massage therapists.** (a) The authority to license  
8 massage therapists is reserved to the state, and, except as specifically provided by  
9 statute, a municipality may not enact or enforce an ordinance requiring professional  
10 licensure of massage therapists.

11 (b) This section applies to home rule and general law municipalities.

12 \* **Sec. 8.** AS 44.62.330(a) is amended by adding a new paragraph to read:

13 (49) Board of Massage Therapists.

14 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 **APPLICABILITY.** (a) AS 08.61.030 - 08.61.050, enacted by sec. 4 of this Act,

17 (1) apply on and after the effective date of sec. 4 of this Act to persons who

18 (A) have not practiced massage therapy, as defined in AS 08.61.100,  
19 enacted by sec. 4 of this Act, in the state, on or after the effective date of sec. 4 of this  
20 Act; or

21 (B) have practiced massage therapy in the state but do not meet the  
22 requirements of (2) of this section; and

23 (2) apply on and after the date that is two years after the effective date of sec.  
24 4 of this Act to a person who has been practicing massage therapy in the state and meets the  
25 requirements of AS 08.61.040, enacted by sec. 4 of this Act.

26 (b) In this section, "massage therapy" has the meaning given in AS 08.61.100,  
27 enacted by sec. 4 of this Act.

28 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **TRANSITION.** (a) Notwithstanding AS 08.61.030, enacted by sec. 4 of this Act, the  
31 Board of Massage Therapists shall waive the course of study and examination requirements

1 and issue a license to practice massage therapy to a person who

2 (1) applies for the license before the date that is two years after the effective  
3 date of sec. 4 of this Act;

4 (2) proves that the person owned, operated, or worked for a massage therapy  
5 business and performed the practice of massage therapy before the effective date of sec. 4 of  
6 this Act by submitting

7 (A) copies of the person's signed federal income tax returns for the five  
8 years immediately preceding the effective date of sec. 4 of this Act, listing the person's  
9 occupation as massage therapy in this state;

10 (B) copies of the person's signed schedule C federal income tax returns  
11 for the five years immediately preceding the effective date of sec. 4 of this Act,  
12 demonstrating that the person has reported income from the practice of massage  
13 therapy in this state;

14 (C) a sworn statement from the person's employer in this state attesting  
15 that the person has practiced massage therapy within the five years immediately  
16 preceding the effective date of sec. 4 of this Act, a copy of the business license of the  
17 person's employer, and a copy of the person's Form W-2 or Form 1099-MISC from the  
18 same employer;

19 (D) a copy of a municipal occupational license that was current on the  
20 day before the effective date of sec. 4 of this Act from a municipality in this state,  
21 stating the person's occupation as massage therapist;

22 (E) documentation that the person has, for at least one year preceding  
23 the effective date of sec. 4 of this Act, been an active member, as a massage therapist,  
24 in a national professional massage therapy association that was established before  
25 2000, offers professional liability insurance as a benefit of membership, and has an  
26 established code of professional ethics; or

27 (F) other documentation satisfactory to the board; and

28 (3) meets the requirements of AS 08.61.030(1), (2), (4), (5), and (6), enacted  
29 by sec. 4 of this Act.

30 (b) A license issued under this section is considered to be a license issued under  
31 AS 08.61, enacted by sec. 4 of this Act.

1 (c) In this section, "board" and "massage therapy" have the meanings given in  
2 AS 08.61.100, enacted by sec. 4 of this Act.

3 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 **BOARD OF MASSAGE THERAPISTS; TRANSITION; STAGGERED TERMS.** (a)  
6 In making initial appointments to the Board of Massage Therapists, the governor shall  
7 consider a massage therapist to be licensed for the purpose of AS 08.61.010, enacted by sec. 4  
8 of this Act, if the massage therapist has practiced massage therapy in this state for the three  
9 years immediately preceding appointment.

10 (b) The governor shall appoint the initial members of the board to staggered terms as  
11 follows:

12 (1) two members shall be appointed to serve four years;

13 (2) two members shall be appointed to serve three years; and

14 (3) one member shall be appointed to serve two years.

15 (c) Notwithstanding AS 08.61.010, added by sec. 4 of this Act, a member appointed  
16 to the Board of Massage Therapists who is not a public member may be unlicensed under  
17 AS 08.61, added by sec. 4 of this Act, for the first year of the member's initial appointment or  
18 until 30 days after the Department of Commerce, Community, and Economic Development  
19 begins issuing licenses, whichever occurs first. A member of the board that does not obtain a  
20 license as required by this subsection shall be removed from the board and the governor shall  
21 appoint a replacement to serve the unexpired term.

22 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 **TRANSITIONAL PROVISIONS: REGULATIONS.** The Department of Community,  
25 Commerce, and Economic Development and the Board of Massage Therapists may adopt  
26 regulations necessary to implement the changes made by this Act. The regulations take effect  
27 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law  
28 implemented by the regulation.

29 \* **Sec. 13.** AS 08.61.010 and 08.61.020, enacted by sec. 4 of this Act, and secs. 11 and 12 of  
30 this Act take effect immediately under AS 01.10.070(c).

31 \* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect July 1, 2014.