

SB137 ENROLLED



1 SB137
2 HUUG363-2
3 By Senator Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 20-Feb-24



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1 Enrolled, An Act,

2

3 Relating to the Alabama Sunset Law; to terminate the
4 existence and functioning of the Alabama Board of Massage
5 Therapy; to create the Alabama Massage Therapy Licensing Board
6 pursuant to a new Chapter 43A, Title 34, Code of Alabama 1975;
7 to provide for the membership and organization of the new
8 board under the initial temporary oversight of the Board of
9 Nursing; to provide for the transfer of all powers, duties,
10 rights, records, and property from the former board to the new
11 board; to temporarily extend the renewal date of certain
12 licenses and registrations issued by the former board; and to
13 repeal Chapter 43, Title 34, Code of Alabama 1975, providing
14 for the Alabama Board of Massage Therapy.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Pursuant to the Alabama Sunset Law, the
17 Sunset Committee recommends the termination of the Alabama
18 Board of Massage Therapy, with the additional recommendation
19 for statutory change as set out in Sections 2(a) and 3.

20 Section 2. (a) The existence and functioning of the
21 Alabama Board of Massage Therapy, created and functioning
22 pursuant to Chapter 43 of Title 34, Code of Alabama 1975, is
23 terminated, and those code sections are expressly repealed.

24 (b) (1) Commencing on June 1, 2024, the Alabama Board of
25 Massage Therapy shall be reconstituted as the Alabama Massage
26 Therapy Licensing Board and all powers, duties, and functions
27 of the new board shall be temporarily assumed and performed by
28 the Board of Nursing pending the reconstitution of the Alabama



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29 Massage Therapy Licensing Board as provided in Section 3.
30 Additionally, commencing on June 1, 2024, the Executive
31 Officer of the Board of Nursing shall temporarily assume and
32 perform all duties, responsibilities and functions of the
33 position of an executive officer for the Alabama Massage
34 Therapy Licensing Board, as defined in Section 34-43A-2,
35 pending the appointment of an executive officer by the new
36 Alabama Massage Therapy Licensing Board.

37 (2) During the temporary transfer commencing on June 1,
38 2024, all personnel of the Board of Nursing may act as agents
39 of and may perform those duties, responsibilities, and
40 functions determined necessary by the Executive Officer of the
41 Board of Nursing to support the Alabama Massage Therapy
42 Licensing Board, created in Section 3, until those duties,
43 responsibilities, and functions temporarily assumed by the
44 Executive Officer of the Board of Nursing pursuant to
45 subdivision (1) are transferred to the executive officer of
46 the newly reconstituted Alabama Massage Therapy Licensing
47 Board pursuant to subdivision (3). During the temporary
48 transfer the Board of Nursing, on behalf of the Alabama
49 Massage Therapy Licensing Board, may employ and train
50 individuals subject to the state Merit System for the Alabama
51 Massage Therapy Licensing Board.

52 (3) All powers, duties, and functions temporarily
53 assumed and performed by the Board of Nursing and the
54 Executive Officer of the Board of Nursing pursuant to
55 subdivision (1), shall be transferred to the Alabama Massage
56 Therapy Licensing Board, as created by Chapter 43A of Title



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57 34, Code of Alabama 1975, on or before October 1, 2026.

58 Section 3. Chapter 43A is added to Title 34 of the Code
59 of Alabama 1975, to read as follows:

60 §34-43A-1. Short title.

61 This chapter shall be known and may be cited as the
62 Alabama Massage Therapy Licensing Act.

63 §34-43A-2. Definitions.

64 For purposes of this chapter, the following terms have
65 the following meanings:

66 (1) ADVERTISE. To distribute a card, flier, sign, or
67 device to any individual or entity, or allow any sign or
68 marking on any building, radio, television, or to publicize by
69 any other means designed to attract public attention.

70 (2) BOARD. The Alabama Massage Therapy Licensing Board
71 created by this chapter.

72 (3) EXAMINATION. The National Certification Board for
73 Therapeutic Massage and Bodywork Examination or the Federation
74 of State Massage Therapy Board's Massage and Bodywork
75 Licensing Examination administered by an independent agency or
76 another nationally or internationally accredited examination
77 administered by an independent agency approved by the board,
78 or state examination administered by the board. The national
79 examination shall be accredited by the National Commission for
80 Certifying Agencies. The board may also administer a written,
81 oral, or practical examination.

82 (4) EXECUTIVE DIRECTOR. The Executive Director of the
83 Alabama Massage Therapy Licensing Board.

84 (5) LICENSE. The credential issued by the board which



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85 allows the holder to engage in the safe and ethical practice
86 of massage therapy.

87 (6) MASSAGE THERAPIST. An individual licensed pursuant
88 to this chapter who practices or administers massage therapy
89 or related touch therapy modalities to a patron for
90 compensation.

91 (7) MASSAGE THERAPY ESTABLISHMENT. A site, premises, or
92 business where massage therapy is practiced by a massage
93 therapist.

94 (8) MASSAGE THERAPY INSTRUCTOR. A massage therapist who
95 is approved by the board to teach the practice of massage
96 therapy.

97 (9) MASSAGE THERAPY or RELATED TOUCH THERAPY
98 MODALITIES. a. The mobilization of the soft tissue which may
99 include skin, fascia, tendons, ligaments, and muscles, for the
100 purpose of establishing and maintaining good physical
101 condition.

102 b. The term includes effleurage, petrissage,
103 tapotement, compression, vibration, stretching, heliotherapy,
104 superficial hot and cold applications, topical applications,
105 or other therapy that involves movement either by hand,
106 forearm, elbow, or foot, for the purpose of therapeutic
107 massage, and any massage, movement therapy, massage
108 technology, myotherapy, massotherapy, oriental massage
109 techniques, structural integration, acupressure, or polarity
110 therapy.

111 c. The term massage therapy may include the external
112 application and use of herbal or chemical preparations and



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113 lubricants including, but not limited to, salts, powders,
114 liquids, nonprescription creams, cups, mechanical devices such
115 as T-bars, thumpers, body support systems, heat lamps, hot and
116 cold packs, salt glow, steam cabinet baths, or hydrotherapy.

117 d. The term does not include laser therapy, microwave,
118 injection therapy, manipulation of the joints, or any
119 diagnosis or treatment of an illness that normally involves
120 the practice of medicine, chiropractic, physical therapy,
121 podiatry, nursing, midwifery, occupational therapy,
122 veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or
123 naturopathics.

124 (10) MASSAGE THERAPY SCHOOL. A school, approved by the
125 board, where massage therapy is taught and which is one of the
126 following:

127 a. If located in Alabama, approved by the board as
128 meeting the minimum established standards of training and
129 curriculum as determined by the board.

130 b. If located outside of Alabama, recognized by the
131 board and by a regionally recognized professional accrediting
132 body.

133 c. A postgraduate training institute accredited by the
134 Commission on Massage Therapy Accreditation.

135 (11) SEXUALLY-ORIENTED BUSINESS. A sex parlor, massage
136 parlor, nude studio, modeling studio, love parlor, adult
137 bookstore, adult movie theater, adult video arcade, adult
138 motel, or other commercial enterprise which has the offering
139 for sale, rent, or exhibit, or the exhibit of, items or
140 services intended to provide sexual stimulation or sexual



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141 gratification to the patron.

142 (12) STUDENT. Any individual who is enrolled in a
143 massage therapy school.

144 §34-43A-3. Regulated activities.

145 Except as specifically provided by this chapter, no
146 individual may do any of the following unless licensed
147 pursuant to this chapter:

148 (1) Advertise that he or she performs massage therapy
149 or related touch therapy modalities.

150 (2) Hold himself or herself out to the public as a
151 massage therapist, using any name or description denoting
152 himself or herself as a massage therapist, or purporting to
153 have the skills necessary to perform massage therapy.

154 (3) Practice massage therapy.

155 §34-43A-4. Exemptions.

156 (a) The following individuals, offices, and
157 establishments are exempt from this chapter:

158 (1) A student who is rendering massage therapy services
159 under the supervision of a massage therapy instructor, or any
160 other supervisory arrangement recognized and approved by the
161 board including, but not limited to, a temporary permit. A
162 student shall be designated by title clearly indicating his or
163 her training status.

164 (2) A qualified member of another profession who is
165 licensed and regulated under state law while in the course of
166 rendering services within the scope of his or her license,
167 provided that the individual does not represent himself or
168 herself as a massage therapist.



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169 (3) An individual providing massages to his or her
170 immediate family.

171 (4) An individual offering massage therapy instruction
172 who is visiting from another state, territory, or country,
173 provided that the individual is licensed or registered as
174 required in his or her place of residence. A visiting
175 instructor may teach continuing education courses in this
176 state for up to 100 hours per year without being licensed by
177 the board. A visiting instructor who teaches continuing
178 education courses in this state for 100 hours or more per year
179 is required to be licensed by the board.

180 (5) Members of the Massage Emergency Rescue Team
181 (MERT), or any other nationally or internationally recognized
182 disaster relief association, who practice massage therapy in
183 this state only during a time declared by the Governor or the
184 Legislature to be a city, county, or state emergency. These
185 therapists may work in this state for a period of time
186 approved by the board.

187 (6) A Native American healer using traditional healing
188 practices. A Native American healer who applies to the board
189 for a massage therapist license shall comply with all
190 licensing requirements.

191 (7) An individual acting under the supervision of a
192 physician, a physical therapist, or a chiropractor within the
193 scope of his or her license, provided that the individual does
194 not represent himself or herself as a massage therapist.

195 (8) The office of a chiropractor, physician, or
196 physical therapist which employs or contracts with a massage



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197 therapist who is exempt from an establishment license.

198 (b) Nothing in this chapter shall be construed to
199 authorize massage therapists to administer, dispense, or
200 prescribe drugs, or engage in the practice of medicine in any
201 manner including, but not limited to, nutrition, diagnosing or
202 prescribing drugs for mental, emotional, or physical disease,
203 illness, or injury.

204 §34-43A-5. Alabama Massage Therapy Licensing Board.

205 (a) (1) There is created the Alabama Massage Therapy
206 Licensing Board. The purpose of the board is to protect the
207 health, safety, and welfare of the public by ensuring that
208 massage therapists, massage therapy schools, and massage
209 therapy instructors meet prescribed standards of education,
210 competency, and practice. To accomplish this mission, the
211 board shall establish standards to ensure completion of all
212 board functions in a timely and effective manner and to
213 provide open and immediate access to all relevant public
214 information. The board shall communicate its responsibilities
215 and services to the public as part of its consumer protection
216 duties. The board shall develop and implement a long range
217 plan to ensure effective regulation and consumer protection.

218 (2) All rights, duties, records, property, real or
219 personal, and all other effects existing in the name of the
220 Alabama Board of Massage Therapy, formerly created and
221 functioning pursuant to Chapter 43, or in any other name by
222 which that board has been known, shall continue in the name of
223 the Alabama Massage Therapy Licensing Board. Any reference to
224 the former Alabama Board of Massage Therapy, or any other name



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225 by which that board has been known, in any existing law,
226 contract, or other instrument shall constitute a reference to
227 the Alabama Massage Therapy Licensing Board as created in this
228 chapter. All actions of the former Alabama Board of Massage
229 Therapy or the executive director of the former board done
230 prior to June 1, 2024, are approved, ratified, and confirmed.

231 (3) The status of any individual or entity properly
232 licensed, accredited, or registered by the former Alabama
233 Board of Massage Therapy on June 1, 2024, shall continue under
234 the jurisdiction of the Alabama Massage Therapy Licensing
235 Board. Any license, accreditation, or registration subject to
236 renewal on or before October 1, 2024, pursuant to this chapter
237 may be temporarily extended by six months unless and until
238 otherwise provided by rule of the board.

239 (b) (1) The board shall consist of the following nine
240 members:

241 a. Three active licensees appointed by the Governor.

242 b. Two active licensees appointed by the Lieutenant
243 Governor and one at-large member appointed by the Lieutenant
244 Governor.

245 c. Two active licensees appointed by the Speaker of the
246 House of Representatives and one at-large member appointed by
247 the Speaker of the House of Representatives.

248 (2) The seven active massage therapist licensee members
249 of the board shall be appointed so that not more than one
250 active licensee member from each United States Congressional
251 District in the state is appointed to serve at the same time.
252 The two members appointed from the state at large shall have



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253 never been licensed as massage therapists nor have had any
254 direct financial interest in the massage therapy profession.
255 One of the at-large members shall have extensive knowledge of
256 sex trafficking and related law enforcement efforts to defeat
257 sex trafficking. The at-large member appointed by the
258 Lieutenant Governor and the at-large member appointed by the
259 Speaker of the House of Representatives shall be appointed
260 from a list of three names each provided by the Minority
261 Leader of the Senate and the Minority Leader of the House of
262 Representatives, respectively. The appointing authorities
263 shall coordinate their appointments to assure the board
264 membership is inclusive and reflects the racial, gender,
265 geographic, urban, rural, and economic diversity of the state.

266 (3) The members initially appointed to the board shall
267 be appointed not later than July 1, 2024. Each board member
268 shall be selected upon personal merit and qualifications, not
269 per membership or affiliation with an association. Each board
270 member shall be a citizen of the United States and a resident
271 of this state for two years immediately preceding appointment.
272 No member of the board shall serve more than two full
273 consecutive terms.

274 (c) Of the initial nine appointees to the board, three
275 members shall be appointed for terms of two years, three
276 members shall be appointed for terms of three years, and three
277 members shall be appointed for terms of four years as
278 determined by lottery. Thereafter, successors shall be
279 appointed for terms of four years, each term expiring on June
280 30.



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281 (d) Vacancies on the board occurring prior to the
282 expiration of a term shall be filled by the original
283 appointing authority within 30 days after the vacancy, to
284 serve for the remainder of the unexpired term. Each member of
285 the board shall serve until his or her successor has been duly
286 appointed and qualified.

287 (e) The board shall hold its first meeting within 30
288 days after the initial members are appointed. At the first
289 meeting, and annually thereafter in the month of October, the
290 board shall elect a chair and a vice chair from its
291 membership. The board shall hold two biannual meetings for the
292 purpose of reviewing license applications. The board may hold
293 additional meetings at the discretion of the chair and four
294 members of the board. A quorum of the board shall be a
295 majority of the current appointed board members. Upon the
296 written request of any individual, submitted to the board at
297 least 24 hours in advance of a scheduled meeting, the meeting
298 shall be recorded electronically, and a copy of the recording
299 shall be made available, upon request, for 30 calendar days
300 following the date of the recording.

301 (f) Board members shall not receive compensation for
302 their services, but shall receive the same per diem and
303 allowance as provided to state employees for each day the
304 board meets and conducts business.

305 (g) (1) Commencing on September 30, 2026, the board may
306 employ, and at its pleasure discharge, an executive director
307 in the unclassified service, officers, and employees subject
308 to the state Merit System as necessary to implement this



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309 chapter.

310 (2) When necessary, the board may retain outside
311 counsel who satisfies the qualifications required of a deputy
312 attorney general.

313 (h) An affirmative vote of a majority of the members of
314 the board shall be required to grant, suspend, or revoke a
315 license to practice massage therapy or a license to operate a
316 massage therapy establishment.

317 (i) The board shall be financed only from income
318 accruing to the board from fees, licenses, other charges and
319 funds collected by the board, and any monies that are
320 appropriated to the board by the Legislature.

321 (j) A board member may be removed at the request of the
322 board for misfeasance, malfeasance, neglect of duty,
323 commission of a felony, incompetence, permanent inability to
324 perform official duties, or failing to attend two consecutive
325 properly noticed meetings within a one-year period.

326 (k) Members of the board are immune from liability for
327 all good faith acts performed in the execution of their duties
328 as members of the board.

329 (l) Appointees to the board shall take the
330 constitutional oath of office and shall file the oath in the
331 office of the Governor before undertaking any duties as a
332 board member. Upon receiving the oath, the Governor shall
333 issue a certificate of appointment to each appointee.

334 §34-43A-6. Powers and duties of board.

335 (a) The board shall do all of the following:

336 (1) Qualify applicants to take the licensing



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337 examination and issue licenses to successful applicants.

338 (2) Adopt a seal and affix the seal to all licenses
339 issued by the board. All licenses shall be on pre-printed,
340 sequentially numbered certification forms.

341 (3) Create application forms for examination and
342 licensing and assess and collect fees pursuant to this
343 chapter.

344 (4) Maintain a complete record of all massage
345 therapists and annually prepare a roster of the names and
346 addresses of those licensees. A copy of the roster shall be
347 provided to any individual upon request and the payment of a
348 fee established by the board in an amount sufficient to cover
349 the costs of publication and distribution.

350 (5) Provide for the investigation of any individual who
351 is suspected of violating this chapter.

352 (6) Adopt and revise rules as necessary to implement
353 this chapter pursuant to the Administrative Procedure Act. All
354 administrative rules of the former Alabama Board of Massage
355 Therapy existing on June 1, 2024, which reference Chapter 43,
356 unless in conflict with existing law, shall remain in effect
357 as rules of the Alabama Massage Therapy Licensing Board until
358 amended or repealed by that board.

359 (7) Provide a copy of this chapter, upon request, to
360 any licensee or applicant for a license.

361 (8) By rule, require massage therapists, massage
362 therapy establishments, and massage therapy schools to carry
363 professional and general liability insurance with an "A" rated
364 or better insurance carrier in the amount of at least one



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365 million dollars (\$1,000,000). Proof of coverage shall be
366 provided to the board upon request.

367 (9) Perform other functions necessary and proper for
368 the performance of official duties.

369 (b) The board may do any of the following:

370 (1) Accept or deny the application of any individual
371 applying for a license as a massage therapist upon an
372 affirmative vote of a majority of the board.

373 (2) By rule, establish criteria for certifying massage
374 therapy instructors.

375 (3) Adopt an annual budget and authorize necessary
376 expenditures from fees and other available appropriations. The
377 expenditures of the board may not exceed the revenues of the
378 board in any fiscal year.

379 (4) Adopt a code of ethics.

380 (5) Provide for the inspection of the business premises
381 of any licensee during normal business hours, upon complaint.

382 (6) Establish a list of approved massage therapy
383 schools.

384 §34-43A-7. License required; sexually-oriented
385 businesses; limitations on advertising or offers of service.

386 (a) No individual may perform the duties of a massage
387 therapist unless he or she holds a valid license issued by the
388 board.

389 (b) A massage therapist may not perform massage therapy
390 for a sexually-oriented business, and shall be subject to all
391 sections of Article 3 of Chapter 12 of Title 13A.

392 (c) A massage therapist may not advertise or offer to



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393 perform services outside the scope of his or her expertise,
394 experience, and education for any client who is ill or has a
395 physical dysfunction, unless the services are performed in
396 conjunction with a licensed physician, physical therapist, or
397 chiropractor.

398 (d) A massage therapist or massage therapy
399 establishment may not advertise or offer to perform services
400 on any sexually explicit website or online platform that
401 promotes prostitution, sexually explicit services, or human
402 trafficking.

403 §34-43A-8. Application for license; licensing
404 requirements.

405 (a) An individual desiring to be licensed as a massage
406 therapist shall apply to the board on forms provided by the
407 board. Unless licensed pursuant to subsection (b), an
408 applicant for a license shall submit evidence satisfactory to
409 the board that he or she has met all of the following
410 requirements:

411 (1)a. Completed a minimum of 650 hours of instruction
412 which shall consist of all of the following:

413 1. One hundred hours of anatomy and physiology,
414 including 35 hours of myology, 15 hours of osteology, 10 hours
415 of circulatory system, and 10 hours of nervous system, with
416 the remaining 30 hours addressing other body systems at the
417 discretion of the massage therapy school.

418 2. Two hundred fifty hours of basic massage therapy,
419 the contradistinctions of massage therapy, and related touch
420 therapy modalities, including a minimum of 50 hours of



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421 supervised massage.

422 3. Fifty hours of business, hydrotherapy, first aid,
423 cardiopulmonary resuscitation, professional ethics, and state
424 massage therapy laws.

425 4. Two hundred fifty hours of electives as determined
426 by the massage therapy school.

427 b. The board, by rule, may increase the minimum number
428 of hours of instruction required for a license, not to exceed
429 the number of hours recommended by the National Certification
430 Board for Therapeutic Massage and Bodywork.

431 c. In addition to paragraphs a. and b., to perform
432 therapeutic massage on an animal, a massage therapist shall
433 have also graduated from a nationally approved program and
434 completed at least 100 hours of postgraduate training and
435 education in animal anatomy, pathology, and physiology for the
436 specific type of animal upon which he or she will perform
437 therapeutic massage.

438 (2) Successfully passed a state board exam or a
439 national standardized examination approved by the board. The
440 board may approve other state exams on a case-by-case basis.

441 (3) Completed a criminal history background check
442 pursuant to Section 34-43A-13(c).

443 (4) Paid all applicable fees.

444 (b) Notwithstanding the requirements listed in
445 subdivisions (1) and (2) of subsection (a), the board may
446 license an applicant who is licensed or registered to practice
447 massage therapy in another state if the standards of practice
448 or licensing of that state, at the time the applicant was



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449 originally licensed or registered, were equal to or stricter
450 than the requirements imposed by this chapter. All applicants
451 may be subject to an initial in-person board hearing
452 determined by the board.

453 (c) Upon receipt of an application, the board shall
454 notify the applicant that his or her application is pending
455 and shall also notify the applicant upon the approval or
456 rejection of his or her application. If an application is
457 rejected, the board shall notify the applicant of the reasons
458 for the rejection.

459 §34-43A-9. Licensing of massage therapy establishments;
460 initial inspection.

461 (a) No massage therapy establishment shall operate in
462 this state without a license issued by the board.

463 (b) A sexually-oriented business may not operate as a
464 massage therapy establishment or be licensed by the board
465 pursuant to this chapter.

466 (c) A massage therapy establishment shall contract with
467 or employ only licensed massage therapists to perform massage
468 therapy. Every massage therapist shall be registered with the
469 board and one of them shall be designated as the individual
470 who will ensure that the massage therapy establishment
471 complies with state law and all applicable administrative
472 rules.

473 (d) A massage therapy establishment license is not
474 assignable or transferable.

475 (e) If the holder of a massage therapy establishment
476 license moves the location of the massage therapy



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477 establishment without changing either the name or ownership of
478 that massage therapy establishment, the board shall waive the
479 new establishment license fee, if documentation set by rule of
480 the board is approved. This subsection shall not change the
481 expiration date of a massage therapy establishment license.

482 (f) (1) Except as provided in subdivision (2), each
483 applicant for a massage therapy establishment license shall
484 complete a criminal history background check pursuant to rules
485 adopted by the board.

486 (2) An applicant for a massage therapy establishment
487 license, who is a massage therapist and has completed a
488 criminal history background check as required by the board
489 within the preceding two years, is exempt from completing the
490 criminal history background check required in subdivision (1).

491 (g) The physical location of a proposed massage therapy
492 establishment shall be subject to an initial inspection by the
493 board before a massage therapy establishment license is
494 granted to the applicant.

495 (h) If the physical location of a massage therapy
496 establishment has been shut down by the board or by local,
497 state, or federal law enforcement, the physical location is
498 permanently prohibited from being licensed or operating as a
499 massage therapy establishment.

500 §34-43A-10. Application forms; issuance of license;
501 display of license.

502 (a) Applications for licensing and renewal of a license
503 shall be on forms provided by the board and shall be
504 accompanied by the applicable fee. A recent two-by-two inch



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505 photograph showing a frontal view of the head and shoulders of
506 the applicant for a massage therapy or therapy instructor
507 license and applicant for a massage therapy establishment
508 license, taken no more than six months earlier, shall be
509 submitted with each application. All documents shall be
510 submitted in English.

511 (b) The board may deny the application of any applicant
512 who refuses to complete a criminal history background check as
513 required by the board and provided in Section 34-43A-13(c).

514 (c) The board shall issue a license, on a pre-printed
515 sequentially numbered form, to each individual who qualifies
516 to be a massage therapist and to each qualified applicant for
517 a massage therapy establishment license. A license issued by
518 the board grants all professional rights, honors, and
519 privileges relating to the practice of massage therapy.

520 (d) Each massage therapist shall display his or her
521 license in the manner specified by the board. Each massage
522 therapy establishment shall prominently post its license, and
523 the license of each massage therapist who practices within the
524 massage therapy establishment, in plain sight at the massage
525 therapy establishment.

526 (e) A license is the property of the board and shall be
527 surrendered upon demand of the board.

528 §34-43A-11. License renewal; reinstatement.

529 (a) With the exception of massage therapy schools,
530 which register annually, each license shall be renewed
531 biennially, on or before the anniversary date, by forwarding
532 to the board a renewal application accompanied by the renewal



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533 fee. Except as provided in Section 34-43A-5(a)(3), any license
534 not renewed biennially on or before the anniversary date shall
535 expire.

536 (b) Each licensee, upon application for renewal of a
537 license, shall do both of the following:

538 (1) Submit evidence of satisfactory completion of the
539 continuing education requirements pursuant to Section
540 34-43A-19.

541 (2) Complete a new criminal history background check
542 pursuant to rules adopted by the board. The board may deny the
543 application for renewal of any licensee who refuses to
544 complete a criminal history background check as required by
545 the board.

546 (c) Licenses are valid for two years from the date of
547 issuance. An individual whose license has expired and who has
548 ceased to practice massage therapy for a period of not longer
549 than five years may have his or her license reinstated upon
550 payment of a reactivation fee, the submission of a renewal
551 application, and evidence satisfactory to the board that the
552 applicant has fulfilled continuing education requirements,
553 completed a criminal history background check as provided in
554 Section 34-43A-13(c), paid the criminal history background
555 check fee, and passed the examination.

556 §34-43A-12. Alabama Massage Therapy Licensing Board
557 Fund.

558 (a) The board, by rule, shall assess and collect all of
559 the following fees not to exceed:

560 (1) One hundred dollars (\$100) for an initial massage



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561 therapist license.

562 (2) One hundred dollars (\$100) for a biennial license
563 renewal postmarked or received at the office of the board on
564 or before the expiration date of the license.

565 (3) One hundred dollars (\$100) for an initial, and
566 fifty dollars (\$50) for any renewal of, a massage therapy
567 establishment license.

568 (4) One hundred fifty dollars (\$150) for an initial
569 registration, and any renewal registration, as a massage
570 therapy school in this state.

571 (5) One hundred dollars (\$100) to register and renew
572 registration as a massage therapy instructor in this state.

573 (6) Seventy-five dollars (\$75) to reactivate an expired
574 license.

575 (7) Twenty-five dollars (\$25) shall be added to any
576 license fees not postmarked or received at the office of the
577 board on or before the expiration date of the license.

578 (8) Ten dollars (\$10) for a duplicate license
579 certificate or a name change on a license certificate. The
580 board may issue a duplicate certificate for each massage
581 therapy establishment on file with the board where the massage
582 therapist practices massage therapy. The board may issue
583 additional duplicate certificates only after receiving a sworn
584 letter from the massage therapist that an original certificate
585 was lost, stolen, or destroyed. The board shall maintain a
586 record of each duplicate certificate issued.

587 (b) Necessary administrative fees may be charged by the
588 board including, but not limited to, reasonable costs for



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589 copying, labels, and lists, and the actual costs for
590 completing a criminal history background check. Examination
591 and license fees may be adjusted by rule of the board.

592 (c) Commencing on June 1, 2024, the name of the
593 separate special revenue trust fund in the State Treasury
594 known as the Alabama Board of Massage Therapy Fund shall be
595 renamed and then known as the Alabama Massage Therapy
596 Licensing Board Fund. All receipts collected by the board
597 under this chapter shall be deposited in this fund and used
598 only to carry out this chapter. Receipts shall be disbursed
599 only by warrant of the Comptroller, upon itemized vouchers
600 approved by the chair of the board. No funds shall be
601 withdrawn except as budgeted and allotted according to
602 Sections 41-4-80 to 41-4-96, inclusive, 41-19-1, and 41-19-12,
603 and only in amounts as stipulated in the general
604 appropriations bill or other appropriations bills.

605 §34-43A-13. Complaints; grounds for suspension,
606 revocation, etc., of license; penalties; rulemaking authority.

607 (a) Any individual may file with the board a written
608 complaint regarding an allegation of impropriety by a massage
609 therapist, massage therapy establishment, or other individual.
610 Complaints shall be made in the manner prescribed by the
611 board. Complaints received by the board shall be referred to a
612 standing investigative committee consisting of a board member,
613 the board attorney, and the board investigator. If no probable
614 cause is found, the investigative committee may dismiss the
615 charges and prepare a statement, in writing, of the reasons
616 for that decision.



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617 (b) If probable cause is found, the board shall
618 initiate an administrative proceeding. Upon a finding that the
619 licensee has committed any of the following misconduct, the
620 board may suspend, revoke, or refuse to issue or renew a
621 license or impose a civil penalty after notice and opportunity
622 for a hearing pursuant to the Administrative Procedure Act:

623 (1) The license was obtained by means of fraud,
624 misrepresentation, fraudulent transcripts, invalidated exam
625 scores, or concealment of material facts, including making a
626 false statement on an application or any other document
627 required by the board for licensing.

628 (2) The licensee sold or bartered or offered to sell or
629 barter a license for a massage therapist or a massage therapy
630 establishment.

631 (3) The licensee has engaged in unprofessional conduct
632 that has endangered or is likely to endanger the health,
633 safety, and welfare of the public, as defined by the rules of
634 the board.

635 (4) The licensee has been convicted of a felony or of
636 any crime arising out of or connected with the practice of
637 massage therapy.

638 (5) The licensee has violated or aided and abetted in
639 the violation of this chapter.

640 (6) The licensee is adjudicated as mentally incompetent
641 by a court of law.

642 (7) The licensee uses controlled substances or
643 habitually and excessively uses alcohol.

644 (8) The licensee engaged in false, deceptive, or



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645 misleading advertising.

646 (9) The licensee engaged in or attempted to or offered
647 to engage a client in sexual activity, including, but not
648 limited to, genital contact, within the client-massage
649 therapist relationship.

650 (10) The licensee has knowingly allowed the massage
651 therapy establishment to be used as an overnight sleeping
652 accommodation.

653 (11) The licensee had a license revoked, suspended, or
654 denied in any other territory or jurisdiction of the United
655 States for any act described in this section.

656 (12) The applicant or licensee was convicted of
657 impersonating a massage therapist in another jurisdiction.

658 (c)(1) Subsequent to an official complaint, and for
659 other requirements established by this chapter, including for
660 the purpose of determining an applicant's suitability for a
661 license or the renewal of a license to practice massage
662 therapy, the board may request a criminal history background
663 check of the licensee. Each applicant shall submit a complete
664 set of fingerprints and a form, sworn to by the applicant,
665 providing written consent from the applicant for the release
666 of criminal history background check information to the board.

667 (2) The board shall submit the fingerprints and form
668 provided by each applicant to the Alabama State Law
669 Enforcement Agency (ALEA). The applicant may be fingerprinted
670 by ALEA at the time of the form submission. ALEA shall conduct
671 a check of state records and forward the fingerprints to the
672 FBI for a national criminal history background check.



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673 (3) The results of the state and national criminal
674 history background check records shall be returned to the
675 board by ALEA.

676 (4) The board shall reimburse ALEA for conducting
677 criminal history background checks according to the fee
678 schedule adopted by the Alabama Justice Information
679 Commission.

680 (5) Any criminal history background check reports
681 received by the board from ALEA shall be marked confidential
682 and shall not be disclosed or made available for public
683 inspection. All criminal history background check reports
684 received pursuant to this section are specifically excluded
685 from any requirement of public disclosure as a public record.
686 Reports received may only be used for the purposes described
687 in this chapter. All information provided is subject to the
688 rules established by the Alabama Justice Information
689 Commission and Public Law 92-544. An individual that uses a
690 criminal history background check report for purposes other
691 than those provided in this chapter may be subject to criminal
692 charges under Sections 41-9-601 and 41-9-602.

693 (d) An individual governed by this chapter, who has a
694 reasonable belief that another massage therapist has violated
695 this chapter, shall inform the board in writing within 30
696 calendar days after the date the individual discovers this
697 activity. Upon finding that an individual has violated this
698 subsection by not informing the board as required, the board
699 may do any of the following:

700 a. Impose an administrative fine of not more than ten



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701 thousand dollars (\$10,000) according to a disciplinary
702 infraction fine schedule adopted by rule of the board.

703 b. Suspend or revoke the individual's license to
704 practice massage therapy.

705 (e) The license of any individual who has been
706 convicted of, or has entered a plea of nolo contendere to, a
707 crime or offense involving prostitution or any other type of
708 sexual offense shall be permanently revoked by the board
709 according to the Administrative Procedures Act.

710 (f) The massage therapy establishment license of any
711 massage therapy establishment wherein an individual has been
712 convicted of, or entered a plea of nolo contendere to, an
713 offense involving prostitution or any other type of sexual
714 offense against a client, or which the board determines is a
715 sexually-oriented business, shall be permanently revoked by
716 the board according to the Administrative Procedures Act.

717 (g) (1) Upon a finding that an individual, who is
718 governed by this chapter, has performed massage therapy
719 without having obtained a license, the board may do any of the
720 following:

721 a. Impose an administrative fine of not more than ten
722 thousand dollars (\$10,000).

723 b. Issue a cease and desist order.

724 c. Petition the circuit court of the county where the
725 act occurred to enforce the cease and desist order and collect
726 the assessed fine.

727 (2) Any individual aggrieved by any adverse action of
728 the board may appeal the action to the Circuit Court of



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729 Montgomery County.

730 (h) The board shall present any incident deemed serious
731 misconduct by the board to the local district attorney for
732 review and appropriate legal action.

733 (i) The board may adopt rules to implement and
734 administer this section.

735 §34-43A-14. Use of words massage or bodywork or other
736 advertising descriptions by unlicensed individuals.

737 An individual who does not hold a license as a massage
738 therapist, physical therapist, chiropractor, or athletic
739 trainer, or a license for a massage therapy establishment,
740 shall not use the words massage or bodywork on any sign or
741 other form of advertising describing services performed by the
742 individual or within the establishment. Any advertisement by a
743 massage therapist or massage therapy establishment shall
744 contain the license number of the massage therapist or massage
745 therapy establishment.

746 §34-43A-15. Criminal penalties.

747 Any individual who violates this chapter shall be
748 guilty of a Class C misdemeanor.

749 §34-43A-16. Injunction; civil penalty.

750 (a) In addition to the criminal penalty prescribed by
751 this chapter, the board may seek an injunction against any
752 individual or establishment in violation of this chapter.

753 (b) In an action for an injunction, the board may
754 demand and recover a civil penalty of fifty dollars (\$50) per
755 day for each violation, reasonable attorney fees, and court
756 costs.



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757 §34-43A-17. Construction with other regulations.

758 (a) Except as otherwise provided in subsection (b),
759 this chapter shall supersede any regulation adopted by a
760 political subdivision of the state related to the licensing or
761 regulation of massage therapists and massage therapy
762 establishments.

763 (b) This section shall not affect:

764 (1) Local regulations relating to zoning requirements
765 or occupational license taxes pertaining to massage therapists
766 and massage therapy establishments.

767 (2) Local regulations that do not relate to the
768 practice of massage therapy by qualified individuals.

769 (c) A county, or a municipality within its
770 jurisdiction, may regulate individuals licensed pursuant to
771 this chapter. Regulation shall be consistent with this chapter
772 and shall not supersede this chapter. This section shall not
773 be construed to prohibit a county or municipality from
774 regulating individuals not licensed pursuant to this chapter.

775 §34-43A-18. Massage therapy schools; instructors.

776 (a) To be approved by the board, a massage therapy
777 school shall meet all of the following requirements:

778 (1) Submit to the board a completed application
779 prescribed by the board and the registration fee specified in
780 Section 34-43A-12.

781 (2) Provide documentation of a curriculum which
782 includes a minimum number of required hours of instruction in
783 the subjects required by Section 34-43A-8.

784 (3) Register annually with the board by submitting a



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785 renewal form, the renewal fee specified in Section 34-43A-12,
786 and a then current curriculum and list of active massage
787 therapy instructors teaching at the school.

788 (4) Commencing on October 1, 2025, submit proof to the
789 board of registration as an assigned school through the
790 National Certification of Therapeutic Massage and Bodywork
791 Board (NCBTMB).

792 (b) Except as provided in Section 34-43A-4(a)(4), every
793 massage therapy instructor teaching a course in massage
794 therapy at a massage therapy school located in this state
795 shall be licensed by the board as a massage therapist and
796 registered as a massage therapy instructor. Instructors who
797 are not teaching massage therapy do not need to be registered.
798 An adjunct massage therapy instructor shall be dually licensed
799 in the state where he or she resides or be nationally
800 certified, or both.

801 (c) An applicant for registration as a massage therapy
802 instructor shall satisfy all of the following requirements:

803 (1) Be currently licensed as a massage therapist in
804 this state.

805 (2) Submit to the board a completed application as
806 prescribed by the board and the one-time application fee
807 specified in Section 34-43A-12.

808 (3) Submit documentation of three years of experience
809 in the practice of massage therapy. The documentation may be
810 considered by the board on a case-by-case basis.

811 §34-43A-19. Sunset provision; continuing education.

812 (a) The board is subject to the Alabama Sunset Law of



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813 1981, and is classified as an enumerated agency pursuant to
814 Section 41-20-3. The board shall automatically terminate on
815 October 1, 2026, and every four years thereafter, unless
816 continued pursuant to the Alabama Sunset Law.

817 (b) The board shall adopt a program of continuing
818 education for licensees which shall be a requisite for the
819 renewal of licenses issued pursuant to this chapter and not
820 exceed the requirements of a board-approved nationally
821 recognized board certification organization such as the
822 National Certification Board for Therapeutic Massage and
823 Bodywork.

824 Section 4. The Legislature concurs in the
825 recommendations of the Sunset Committee as provided in
826 Sections 1, 2, and 3.

827 Section 5. This act shall become effective June 1,
828 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 29-Feb-24

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 09-May-24

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives
Passed: 02-May-24, as amended.

House of Representatives
Passed: 09-May-24, as amended by Conference Committee Report.

By: Senator Gudger