

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 58

5 By: Senator Irvin
6 By: Representative Wardlaw
7

For An Act To Be Entitled

9 AN ACT TO CREATE A STUDENT AND APPRENTICE LEVEL OF
10 LICENSING IN THE MASSAGE THERAPY PROFESSION; AND FOR
11 OTHER PURPOSES.
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Subtitle

15 TO CREATE A STUDENT AND APPRENTICE LEVEL
16 OF LICENSING IN THE MASSAGE THERAPY
17 PROFESSION.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 17-86-102, concerning the definitions
23 regarding the practice of massage therapy, is amended to add additional
24 subdivisions to read as follows:

25 (12) "Massage therapy apprentice" means a person who is enrolled
26 in a massage therapy apprenticeship program;

27 (13) "Massage therapy apprenticeship program" means a program
28 that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing
29 on March 1, 2021, and is approved by the United States Office of
30 Apprenticeship;

31 (14) "Massage therapy learning permit" means a permit issued by
32 the Department of Health before enrollment in a massage therapy
33 apprenticeship program or in a massage therapy school that is valid for no
34 longer than six (6) months after completion of the apprenticeship or
35 graduation from the massage therapy school; and

36 (15) "Massage therapy student" means a person who is enrolled in



1 a licensed massage therapy school or postsecondary massage therapy school.

2
3 SECTION 2. Arkansas Code § 17-86-104 is amended to read as follows:
4 17-86-104. Criminal background checks.

5 An applicant applying for enrollment in a massage therapy school,
6 postsecondary massage therapy school, or massage therapy apprenticeship
7 program or applying as a new massage therapy licensee, an individual applying
8 for a new massage therapy school license, or a licensee applying for an
9 upgrade issued by the Department of Health shall apply to the Identification
10 Bureau of the ~~Department~~ Division of Arkansas State Police for a state and
11 federal criminal background check to be conducted by the Identification
12 Bureau of the Division of Arkansas State Police and the Federal Bureau of
13 Investigation.

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15 SECTION 3. Arkansas Code § 17-86-203(d)(1), concerning the powers and
16 duties of the State Board of Health and the Department of Health to regulate
17 the practice of massage therapy, is amended to read as follows:

18 (d)(1) The department may require each original applicant enrolling in
19 a massage therapy school, postsecondary massage therapy school, or massage
20 therapy apprenticeship program, or applying as a new massage therapy licensee
21 to practice in the State of Arkansas and each upgrade applicant for a license
22 issued by the ~~Department of Health~~ department to apply to the Identification
23 Bureau of the Division of Arkansas State Police for a state and federal
24 criminal background check to be conducted by the Identification Bureau of the
25 Division of Arkansas State Police and the Federal Bureau of Investigation.

26
27 SECTION 4. Arkansas Code § 17-86-301(a) and (b), concerning
28 registration to practice massage therapy, is amended to read as follows:

29 (a) It shall be unlawful:

30 (1)~~(A)~~ For any person who does not hold a valid license to use
31 the following titles: massage therapist, massage practitioner, myotherapist,
32 massotherapist, massage technologist, masseur, masseuse, therapy
33 technologist, master massage therapist, massage therapy instructor, or any
34 derivation of those titles or to advertise such titles; ~~or~~

35 ~~(B)~~(2) For any person who does not hold the applicable
36 license issued by the Department of Health to engage professionally for

1 payment, barter, donation, or exchange in the practice or instruction of
2 massage therapy as defined in this chapter;

3 ~~(2)~~(3) For any person to operate or conduct any massage therapy
4 clinic or massage therapy school which does not conform to the sanitary rules
5 contained in § 17-86-302, in state law, in local ordinances, or in those
6 rules which may be adopted by the State Board of Health;

7 ~~(3)~~(4) To employ any person to practice or instruct under this
8 chapter who does not hold a valid license issued by the department;

9 ~~(4)~~(5) For any person to operate a massage therapy school or
10 clinic without its first being registered under the provisions of this
11 chapter as a licensed massage therapy school or registered clinic; ~~or~~

12 ~~(5)~~(6) For any massage therapy school or postsecondary massage
13 therapy school to enroll any person in the massage therapy school or
14 postsecondary school who does not hold a massage therapy learning permit
15 issued by the department;

16 (7) For any massage therapy apprenticeship program to enroll any
17 person in the massage therapy apprenticeship program who does not hold a
18 massage therapy learning permit issued by the department; or

19 (8)(A) For the department or other individual or entity to
20 incorporate privileges or certification requirements of any private
21 organization, private professional association, or private accrediting agency
22 within Arkansas massage laws or its rules.

23 (B) However, the department may adopt as its licensure
24 exam an exam drafted and administered by a private organization, private
25 professional association, or private accreditation agency.

26 (b) Exemptions:

27 (1) Persons authorized by the laws of this state to practice
28 medicine, osteopathy, podiatry, or physical therapy, and licensed physicians'
29 assistants, licensed nurses, licensed physical therapy assistants, licensed
30 acupuncturists, licensed midwives, and chiropractors are exempt from this
31 chapter in so far as massage therapy practices are offered or instructed
32 within the scope and under the provisions of licensure;

33 (2) Persons licensed as a massage therapy student who practice
34 under the direct supervision of a massage therapy instructor at a licensed
35 massage therapy school or licensed postsecondary massage therapy school for a
36 period not to exceed six (6) months from the date of graduation from the

1 massage therapy school;

2 (3) Persons licensed as a massage therapy apprentice who
 3 practice under the direct supervision of a massage therapy instructor who is
 4 registered or approved as a sponsor as part of the massage therapy
 5 apprenticeship program approval by the United States Office of
 6 Apprenticeship, for a period not to exceed six (6) months from the date of
 7 completion of the massage therapy apprenticeship program;

8 (4) Persons authorized by the department to present and instruct
 9 department-approved school curriculum or continuing education programs, or
 10 both, may present and instruct such department-approved curriculum and
 11 programs for payment and in the presentation and instruction may utilize
 12 practices defined in, but without being licensed or registered under, the
 13 provisions of this chapter; and

14 ~~(3)~~(5) The practice of massage therapy that is incidental to a
 15 program of study by students enrolled in a licensed massage therapy school
 16 approved by the department, and under direct supervision of a licensee
 17 employed as an instructor at the school, is exempt from § 17-86-311(a)(10).

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 19 SECTION 5. Arkansas Code § 17-86-303 is amended to read as follows:
 20 17-86-303. Massage therapist.

21 ~~(a) In order to be licensed as a massage therapist, the person seeking~~
 22 ~~licensure shall:~~

23 ~~(1) Furnish to the Department of Health satisfactory proof that~~
 24 ~~he or she is eighteen (18) years of age or older;~~

25 ~~(2) Make oath that he or she has not been convicted of, found~~
 26 ~~guilty of, or entered a plea of guilty or nolo contendere to any offense that~~
 27 ~~would constitute a felony listed under § 17-3-102 or constitute the offense~~
 28 ~~of prostitution, either in this state or another state, and submit a signed~~
 29 ~~authorization to investigate and have information released to the department;~~

30 ~~(3) Present the following issued in the same name as the~~
 31 ~~applicant or licensee:~~

32 ~~(A) A valid photo identification or driver's license, or~~
 33 ~~both; and~~

34 ~~(B) A Social Security card;~~

35 ~~(4)(A) Present a high school diploma, high school equivalency~~
 36 ~~diploma approved by the Adult Education Section, or college transcript and~~

1 ~~credentials issued by a massage therapy school accepted by the department or~~
 2 ~~a like institution with no less than five hundred (500) hours of in-classroom~~
 3 ~~instruction.~~

4 ~~(B) An applicant shall not submit his or her transcript~~
 5 ~~directly to the department.~~

6 ~~(C) An applicant shall request that the massage therapy~~
 7 ~~school submit the transcript directly to the department.~~

8 ~~(D)(i) If the applicant's transcript is not obtainable~~
 9 ~~from the original school, the applicant shall submit a statement to explain~~
 10 ~~why the transcript may not be obtained.~~

11 ~~(ii) Other documentation of credentials may be~~
 12 ~~submitted and accepted for licensure at the discretion of the department;~~

13 ~~(5) Furnish to the department satisfactory proof of passing an~~
 14 ~~examination recognized and approved by the department; and~~

15 ~~(6) Pay the specified fees, which shall accompany a completed~~
 16 ~~notarized application to the department.~~

17 (a) For an applicant seeking enrollment in a massage therapy school or
 18 massage therapy apprenticeship program on or after January 1, 2024, in order
 19 to be issued a massage therapy learning permit, the applicant seeking
 20 enrollment in a massage therapy school or massage therapy apprenticeship
 21 program shall:

22 (1) Furnish to the Department of Health satisfactory proof that
 23 the applicant is eighteen (18) years of age or older;

24 (2) Make oath that the applicant has not been convicted of,
 25 found guilty of, or entered a plea of guilty or nolo contendere to any
 26 offense that would constitute a felony listed under § 17-3-102 or constitute
 27 the offense of prostitution, either in this state or another state, and
 28 submit a signed authorization to investigate and have information released to
 29 the department;

30 (3) Provide a state and federal criminal background check to the
 31 department as provided in § 17-86-104;

32 (4) Present the following issued in the same name as the
 33 applicant or licensee:

34 (A) A valid photo identification card or driver's license,
 35 or both; and

36 (B) A Social Security card;

1 (5) Request the massage therapy school or massage therapy
2 apprenticeship program in which the applicant is seeking to enroll or has
3 enrolled to send a copy of the enrollment contract, or equivalent
4 confirmation of enrollment to the department; and

5 (6) Pay the specified fees as provided in subsection (d) of this
6 section, which shall accompany a completed notarized application to the
7 department.

8 (b) For an applicant who was issued a massage therapy learning permit
9 on or after January 1, 2024, an applicant holding a massage therapy learning
10 permit under subsection (a) of this section, upon graduating from a massage
11 therapy school or completing a massage therapy apprenticeship program, shall:

12 (1) Request the massage therapy school or massage therapy
13 apprenticeship program submit directly to the department either:

14 (A) A transcript and credentials issued by a massage
15 therapy school; or

16 (B) A certificate of completion issued by a massage
17 therapy apprenticeship program;

18 (2) Furnish to the department satisfactory proof of passing an
19 examination recognized and approved by the department;

20 (3) Make oath that the applicant has not been convicted of,
21 found guilty of, or entered a plea of guilty or nolo contendere to any
22 offense that would constitute a felony listed under § 17-3-102 or constitute
23 the offense of prostitution, either in this state or another state, since the
24 date the massage therapy learning permit was issued, and submit a signed
25 authorization to investigate and have information released to the department;

26 (4) Submit a completed application provided by the department
27 for issuance of licensure; and

28 (5) Pay the specified fees as provided in subsection (d) of this
29 section.

30 (c) In order to be licensed as a massage therapist, the person seeking
31 licensure under § 17-86-308 or subsection (g) of this section or through
32 similar reciprocity provisions as provided by the rules established by the
33 department shall:

34 (1) Furnish to the department satisfactory proof that the
35 applicant is eighteen (18) years of age or older;

36 (2) Make oath that the applicant has not been convicted of,

1 found guilty of, or entered a plea of guilty or nolo contendere to any
2 offense that would constitute a felony listed under § 17-3-102 or constitute
3 the offense of prostitution, either in this state or another state, and
4 submit a signed authorization to investigate and have information released to
5 the department;

6 (3) Provide a state and federal criminal background check to the
7 department as provided in § 17-86-104;

8 (4) Present the following issued in the same name as the
9 applicant or licensee:

10 (A) A valid photo identification card or driver’s license,
11 or both; and

12 (B) A Social Security card;

13 (5)(A) Present a high school diploma, high school equivalency
14 diploma approved by the Adult Education Section, or college transcript and
15 credentials issued by a massage therapy school accepted by the department or
16 an equivalent institution with no less than five hundred (500) hours of in-
17 classroom instruction.

18 (B) An applicant shall not submit his or her transcript
19 directly to the department.

20 (C) An applicant shall request that the massage therapy
21 school submit the transcript directly to the department.

22 (D)(i) If the applicant’s transcript is not obtainable
23 from the original school, the applicant shall submit a statement to explain
24 why the transcript can not be obtained.

25 (ii) Other documentation of credentials may be
26 submitted and accepted for licensure at the discretion of the department;

27 (6) Furnish to the department satisfactory proof of passing an
28 examination recognized and approved by the department; and

29 (7) Pay the specified fees as provided in subsection (d) of this
30 section, which shall accompany a completed notarized application to the
31 department.

32 ~~(b)~~(d) Fees are as follows:

33 (1) ~~Application~~ Massage therapy learning permit application fee
34 \$75.00 Nonrefundable under subsection (a) of this section

35 (2) Reciprocity license application fee.....75.00
36 Nonrefundable under subsection (c) of this section

1 ~~(2)~~(3) Original license fee 80.00 under subsection
2 (b) of this section or by reciprocity under subsection (c) of this section

3 ~~(3)~~(4) Biennial renewal 80.00

4 ~~(4)~~(5) Examination fee or reexamination fee 25.00

5 ~~(5)~~(6) Duplicate license fee 10.00

6 ~~(6)~~(7) Pocket card fee not to exceed ten dollars (\$10.00).

7 ~~(e)~~(e) A person shall not practice massage therapy unless he or she
8 holds a valid massage therapy learning permit by the department or until his
9 or her official license has been received from the department.

10 ~~(d)~~(f) A person who attempts to procure or does procure a license in
11 violation of this section shall be subject to the penalties provided for in §
12 17-86-103.

13 (g) A person who was enrolled in a massage therapy school,
14 postsecondary massage therapy school, or massage therapy apprenticeship
15 program as of January 1, 2024, or has completed or graduated from a massage
16 therapy school, postsecondary massage therapy school, or massage therapy
17 apprenticeship program before January 1, 2024, may seek licensure as provided
18 in subsection (c) of this section.

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