

SENATE BILL No. 348

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-21.8.

Synopsis: Massage therapy licensing. Provides that an individual must be licensed by the state board of massage therapy (board) to engage in the practice of massage therapy. (Under current law, massage therapists are certified by the board but certification is not required for the practice of massage therapy.) Removes provisions concerning membership in a professional massage therapy association as a component for determining membership on the board. Allows the board to approve massage therapy school curricula. Provides that a person may not practice massage therapy or use certain titles without a license. Allows for inactive licenses. Provides for the transition to licensure for massage therapists who are certified on June 30, 2014. Allows the temporary practice of massage therapy without a license in certain circumstances. Provides that the massage therapy licensing requirements do not apply to a health care provider who is acting within the scope of the health care provider's license, registration, or certificate. Provides that the massage therapist licensing law preempts local ordinances, resolutions, rules, and policies concerning massage therapists, except for zoning requirements and occupational license fees. Makes conforming changes.

Effective: July 1, 2014.

Alting

January 14, 2014, read first time and referred to Committee on Commerce, Economic Development & Technology.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 348

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-21.8-1-5, AS ADDED BY P.L.200-2007,
- 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2014]: Sec. 5. "Massage therapist" means an individual who
- 4 **is licensed under this article and** practices massage therapy.
- 5 SECTION 2. IC 25-21.8-2-2, AS ADDED BY P.L.200-2007,
- 6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2014]: Sec. 2. (a) The board consists of five (5) members
- 8 appointed by the governor as follows:
- 9 (1) Three (3) massage therapists, each of whom:
- 10 (A) is ~~certified~~ **licensed** under this article; and
- 11 (B) has been actively practicing massage therapy for at least
- 12 three (3) of the five (5) years immediately preceding the
- 13 individual's appointment.
- 14 (2) Two (2) members of the general public. A board member
- 15 appointed under this subdivision must not:
- 16 (A) be ~~certified~~ **licensed** under this article;



- 1 (B) be the spouse of an individual who is ~~certified~~ **licensed** or
 2 intends to be ~~certified~~ **licensed** under this article; or
 3 (C) have a direct or an indirect financial interest in the
 4 profession regulated under this article.
- 5 (b) A ~~message therapist member of the board is not required to be~~
 6 ~~a member of a professional massage therapy association. However:~~
 7 (1) ~~not more than one (1) message therapist member appointed to~~
 8 ~~the board may belong to the same professional massage therapy~~
 9 ~~association; and~~
 10 (2) ~~one (1) message therapist member must not be a member of~~
 11 ~~a professional massage therapy association.~~
- 12 SECTION 3. IC 25-21.8-2-9, AS ADDED BY P.L.200-2007,
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2014]: Sec. 9. The board shall adopt **the following** rules under
 15 IC 4-22-2: **regarding**
- 16 (1) **Rules that establish** standards for the competent practice of
 17 massage therapy.
 18 (2) **Rules necessary for the administration and enforcement of**
 19 **this article.**
- 20 SECTION 4. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007,
 21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2014]: Sec. 1. (a) The board shall do the following:
 23 (1) Administer and enforce this article.
 24 (2) Adopt rules under IC 4-22-2 for the administration and
 25 enforcement of this article.
 26 (3) Judge the qualifications of applicants for ~~certification~~
 27 **licensure** under this article.
 28 (4) Issue, deny, or renew ~~certifications~~ **licenses** under this article.
 29 (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline
 30 individuals who are ~~certified~~ **licensed** under this article for
 31 violations of this article.
 32 (6) Establish reasonable fees for examination, ~~certification~~ **license**
 33 applications, renewal of ~~certifications~~, **licenses**, and other
 34 services.
 35 (7) Maintain a record of all proceedings.
 36 (8) Maintain records of ~~certified~~ **licensed** massage therapists.
 37 (9) Adopt at least two (2) examinations that an applicant may use
 38 for ~~certification~~ **licensure** under this article.
- 39 (b) The board may do the following:
 40 (1) Conduct administrative hearings.
 41 (2) Administer oaths in matters relating to the discharge of the
 42 official duties of the board.



1 **(3) Approve massage therapy school curricula consistent with**
 2 **accepted national educational standards.**

3 SECTION 5. IC 25-21.8-4-0.5 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. This article does not apply to**
 6 **a health care provider who is acting within the scope of the health**
 7 **care provider's license, registration, or certificate.**

8 SECTION 6. IC 25-21.8-4-1, AS ADDED BY P.L.200-2007,
 9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2014]: Sec. 1. An application for a massage therapist
 11 ~~certification~~ **license** must be:

- 12 (1) made to the board in the form and manner provided by the
 13 board; and
 14 (2) accompanied by an application fee in the amount set by the
 15 board.

16 SECTION 7. IC 25-21.8-4-2, AS AMENDED BY P.L.107-2012,
 17 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2014]: Sec. 2. An individual who applies for ~~certification~~
 19 **licensure** as a massage therapist must do the following:

- 20 (1) Furnish evidence satisfactory to the board showing that the
 21 individual:
 22 (A) is at least eighteen (18) years of age;
 23 (B) has a high school diploma or the equivalent of a high
 24 school diploma;
 25 (C) has successfully completed a massage therapy school or
 26 program that:
 27 (i) requires at least five hundred (500) hours of supervised
 28 classroom and hands on instruction on massage therapy;
 29 (ii) is in good standing with a state, regional, or national
 30 agency of government charged with regulating massage
 31 therapy schools or programs; and
 32 (iii) is accredited by the state workforce innovation council
 33 under IC 22-4.1-21 or accredited by another state where the
 34 standards for massage therapy education are substantially
 35 the same as the standards in Indiana, or is a program at an
 36 institution of higher learning that is approved by the board;
 37 and
 38 (D) has taken and passed a ~~certification~~ **licensing** examination
 39 approved by the board.
 40 (2) Provide a history of any criminal convictions the individual
 41 has, including any convictions related to the practice of the
 42 profession. The board shall deny an application for ~~certification~~



- 1 **licensure** if the applicant:
 2 (A) has been convicted of:
 3 (i) prostitution;
 4 (ii) rape; or
 5 (iii) sexual misconduct; or
 6 (B) is a registered sex offender.
 7 (3) Provide proof that the applicant has professional liability
 8 insurance in force that lists the state as an additional insured.
 9 (4) Verify the information submitted on the application form.
 10 (5) Pay fees established by the board.
- 11 SECTION 8. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007,
 12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2014]: Sec. 3. **It is unlawful for** an individual who is not
 14 **certified licensed** under this article ~~may not~~ **to:**
 15 **(1) engage in the practice of massage therapy;**
 16 ~~(2)~~ **(2) profess to be a certified licensed** massage therapist; or
 17 ~~(3)~~ **(3) use:**
 18 (A) the title "~~Certified Massage Therapist~~" "**Licensed**
 19 **Massage Therapist**", or "~~Massage~~" "**Muscle Therapist**",
 20 "**Licensed Massage Practitioner**", "**Massage Practitioner**",
 21 "**Masseur**", "**Masseuse**", "**Myotherapist**", or
 22 "**bodyworker**"; or
 23 (B) the abbreviation "~~CMT~~" "**LMT**" or "**MT**"; or
 24 **(C) other words, initials, letters, abbreviations, or insignia**
 25 **that indicate or imply that to imply the person individual is**
 26 a ~~certified licensed~~ massage therapist.
- 27 SECTION 9. IC 25-21.8-4-4, AS ADDED BY P.L.177-2009,
 28 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014]: Sec. 4. A massage therapist who is ~~certified licensed~~
 30 under this article shall provide proof of ~~certification~~ **licensure** when
 31 practicing massage therapy.
- 32 SECTION 10. IC 25-21.8-4-5 IS ADDED TO THE INDIANA
 33 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2014]: Sec. 5. **(a) The board may classify a**
 35 **license as inactive if the board receives written notification from a**
 36 **licensed massage therapist stating that the licensed massage**
 37 **therapist will not practice in Indiana.**
 38 **(b) The board may reissue a license to a holder of an inactive**
 39 **license if the applicant:**
 40 **(1) pays a reactivation fee set by the board; and**
 41 **(2) is in compliance with any other requirements set by the**
 42 **board.**



1 SECTION 11. IC 25-21.8-4-6 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2014]: **Sec. 6. (a) If an individual is certified**
 4 **as a massage therapist under this article on June 30, 2014:**

5 (1) the individual is considered to be licensed as a massage
 6 therapist on July 1, 2014; and

7 (2) the board shall issue a license to the individual under this
 8 article.

9 (b) Notwithstanding subsection (a), the board and the licensing
 10 agency are not required to issue:

11 (1) a wall license to an individual described in subsection (a);
 12 or

13 (2) a new pocket license to an individual described in
 14 subsection (a);

15 until the license renewal period beginning December 1, 2014.

16 (c) This section expires January 1, 2015.

17 SECTION 12. IC 25-21.8-4-7 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2014]: **Sec. 7. (a) A person who is:**

20 (1) licensed, certified, or registered in another state or
 21 territory, the District of Columbia, or a foreign country; and

22 (2) providing services as a part of an emergency response
 23 team working in conjunction with disaster relief officials;

24 may practice massage therapy without an Indiana license. The
 25 ability to practice under this subsection lasts only for the duration
 26 of the emergency or disaster.

27 (b) A person who is:

28 (1) licensed, certified, or registered in another state or
 29 territory, the District of Columbia, or a foreign country; and

30 (2) providing service as part of a charity, educational, or
 31 athletic event;

32 may practice massage therapy without an Indiana license. Persons
 33 practicing under this subsection may practice only for the period
 34 the event is taking place.

35 (c) A student practicing massage therapy:

36 (1) while enrolled in a program recognized by the board; and

37 (2) while completing a clinical requirement for graduation;

38 may practice massage therapy without a license. If a student is
 39 practicing massage therapy under this subsection, the school or
 40 other entity supervising the student may receive reimbursement
 41 for the services performed by the student. The student may not
 42 receive compensation for performing services.



1 SECTION 13. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007,
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]: Sec. 1. (a) The board may grant ~~certification~~ **licensure**
 4 by endorsement to an individual who:

5 (1) is licensed, certified, or registered in another state having
 6 credentialing standards that are ~~at least as strict as the~~
 7 **substantially equivalent to or exceed the** credentialing
 8 standards specified under this article;

9 (2) is in good standing with the standards of the other state or
 10 country;

11 (3) pays an application fee established by the board; and

12 (4) provides a history of the individual's criminal convictions, if
 13 any, including any criminal convictions relating to the practice of
 14 the profession.

15 (b) The board shall deny an application for ~~certification~~ **licensure**
 16 **by endorsement** if the applicant:

17 (1) has been convicted of:

18 (A) prostitution;

19 (B) rape; or

20 (C) sexual misconduct; or

21 (2) is a registered sex offender.

22 (c) An applicant for a ~~certification~~ **licensure** by endorsement shall
 23 cause each state that previously credentialed the applicant to provide
 24 the board with the applicant's current status in the state.

25 SECTION 14. IC 25-21.8-6-1, AS ADDED BY P.L.200-2007,
 26 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 1. A ~~certification~~ **license** issued by the board is
 28 valid for four (4) years. A ~~certification~~ **license** expires at midnight on
 29 the date established by the licensing agency under IC 25-1-6-4 and
 30 every four (4) years thereafter, unless renewed before that date.

31 SECTION 15. IC 25-21.8-6-2, AS ADDED BY P.L.200-2007,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]: Sec. 2. An individual who applies to renew
 34 ~~certification~~ **licensure** as a massage therapist must:

35 (1) apply for renewal in the manner required by the board; and

36 (2) pay a renewal fee established by the board.

37 SECTION 16. IC 25-21.8-7-3, AS ADDED BY P.L.200-2007,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2014]: Sec. 3. If an individual ~~certified~~ **licensed** under this
 40 article is convicted of a crime, the individual is responsible for
 41 notifying the board not later than thirty (30) days after the conviction.

42 SECTION 17. IC 25-21.8-8 IS ADDED TO THE INDIANA CODE



1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2014]:
3 **Chapter 8. Preemption of Local Ordinances, Resolutions, Rules,
4 and Policies**
5 **Sec. 1. Except as provided in section 2 of this chapter, this**
6 **article supersedes any:**
7 **(1) ordinance;**
8 **(2) resolution;**
9 **(3) rule; or**
10 **(4) policy;**
11 **that has the force of law adopted by a municipality or county**
12 **relating to the licensure, certification, or registration of massage**
13 **therapists.**
14 **Sec. 2. This article does not affect any local ordinance,**
15 **resolution, rule, or policy that has the force of law relating to:**
16 **(1) zoning; or**
17 **(2) occupational license fees;**
18 **adopted by a municipality or county pertaining to massage**
19 **therapists.**

