

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2082
(Human Services Committee)
(At the request of the Board of Massage)

AN ACT to amend and reenact subsection 2 of section 43-25-04, sections 43-25-05 and 43-25-07, subsection 3 of section 43-25-09, subsection 1 of section 43-25-10, and section 43-25-18 of the North Dakota Century Code, relating to massage therapy licensure and the board of massage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-25-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family, or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend.

SECTION 2. AMENDMENT. Section 43-25-05 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05. Board of massage - Terms.

The governor shall appoint a board of massage, to consist of five members. Three of the members of the board must be massage therapists who are licensed in this state. The members must be appointed for three years, staggered so that the term of one member expires each year. Two additional members, who may not be massage therapists or immediate family members of a massage therapist, must be appointed as consumer members for two-year terms, staggered so that the term of one member expires each year. Each member of the board holds office until that member's successor is appointed and qualified. Any member appointed to a term beginning after June 30, 2013, may only serve for a total of six consecutive years, after which that member may not be reappointed unless a period of two years has passed since that member last served on the board.

Within one month after appointment of a new member, the board shall meet at some convenient place within the state and shall annually elect a president, vice president, and secretary-treasurer. The secretary-treasurer must be bonded in the sum of one thousand dollars for the faithful discharge of the secretary-treasurer's duties.

SECTION 3. AMENDMENT. Section 43-25-07 of the North Dakota Century Code is amended and reenacted as follows:

43-25-07. Requisites for licensure and examination - Subjects - Minimum passing grade - Fee for reexamination.

1. Any person who is eighteen years of age or more, ~~a high school graduate or legal equivalent,~~ and of good moral character and temperate habits is entitled to apply to the board. An applicant may receive a license from the board as a massage therapist if the applicant:
 - a. Presents a diploma or credentials issued by a school of massage that meets the standards set by the board;

- b. Passes an examination conducted or approved by the board; and
 - c. Pays the required fees, which must accompany the application to the board.
2. Any applicant failing to obtain licensure within six months of the initial application is entitled to reapply within six months after notification that the application was rejected, upon payment of a fee of fifty dollars or a lesser amount established by the board. Two applications exhaust the privilege under the original application.
 3. Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines the offense has a direct bearing upon a person's ability to serve the public as a massage therapist or the person is not sufficiently rehabilitated under section 12.1-33-02.1.
 4. The board may approve alternate educational methods or methodology for applicants to complete educational requirements if the applicant has graduated from a school of massage that is accredited by a national or regional accrediting agency recognized by the United States department of education.

SECTION 4. AMENDMENT. Subsection 3 of section 43-25-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Continuing education of at least thirty-two continuing education hours, or equivalent college credits, submitted every two years is a further requirement for renewal of the license. The board may accept continuing education attained by remote means. No more than twelve hours of a licensee's renewal hours may be by remote means. To qualify as continuing education, the remote education must be board-approved for content and suitability.
 - a. Odd-numbered licensed individuals report their continuing education in odd-numbered years and even-numbered licensed individuals report their continuing education in even-numbered years, based on the calendar year.
 - b. This subdivision applies for the initial licensure period. Individuals licensed on or before May thirty-first of their initial year, who would normally report hours of continuing education, based on their license number being odd or even, would need to report at least sixteen hours. Those not required to submit continuing education that initial January first would report at least twenty-four hours by the following January first. Individuals licensed after May thirty-first of their initial year, who would normally report hours of continuing education, based on their license number being odd or even would not be required to report that cycle, but would report at least forty-eight hours for the next cycle. Those not required to submit continuing education hours that initial January first would report at least sixteen hours by the following January first. Thereafter, initial licensees would follow the normal renewal reporting cycle.
 - c. ~~This subdivision applies to renewing licensees, for the implementation of the continuing education reporting cycle. On or before January 1, 2010, even-numbered licensees would submit at least sixteen hours of continuing education. On or before January 1, 2011, odd-numbered licensees would submit at least thirty-two hours of continuing education.~~

SECTION 5. AMENDMENT. Subsection 1 of section 43-25-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The license of a massage therapist may be denied, revoked, suspended, or placed on probation for any of the following grounds:
 - a. The licensee is guilty of fraud in the practice of massage or fraud or deceit in admission to the practice of massage.

- b. The licensee has been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a massage therapist, or, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1. The conviction of an offense includes conviction in any jurisdiction in the United States of any offense, which if committed within this state would constitute an offense under this state's laws.
- c. The licensee is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name.
- d. The licensee is addicted to the habitual use of intoxicating liquors, or other legal or illegal drugs, to the extent the licensee is compromised or impaired from performing the professional duties of a massage therapist or is under the influence while assessing, treating, or seeing a client.
- e. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising, the licensee prescribes medicines, drugs, or the licensee infringes on any other licensed profession.
- f. The licensee is guilty of ~~willful~~gross negligence in the practice of massage, or is guilty of employing, allowing, or permitting any unlicensed person to perform massage in the licensee's establishment.
- g. The licensee has violated this chapter or any rule adopted by the board.

SECTION 6. AMENDMENT. Section 43-25-18 of the North Dakota Century Code is amended and reenacted as follows:

43-25-18. Reciprocity.

1. Any person who has been duly licensed and is in good standing in another state to practice massage in a state that meets required educational hours and requirements in this state, and who has been lawfully and continuously engaged in ~~this~~licensed practice for two years or more immediately before filing of an application to practice in this state, and who submits to the board a duly attested certificate from the examining board of the state in which registered, certifying to the fact of registration and being a person of good moral character and of professional attainments, may upon paying a fee of one hundred fifty dollars or a lesser fee set by the board be granted a license to practice in this state without being required to take an examination.
2. An applicant for licensure by reciprocity who has been duly licensed and is in good standing to practice massage in a state with substantially similar licensure standards as determined by the board and who has been lawfully and continuously engaged in licensed practice for five years or more immediately before filing of an application to practice in this state, may be granted a license by the board without being required to take an examination if the applicant otherwise meets all of the requirements of subsection 1.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2082.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 85 Nays 7 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State