

1 SENATE BILL 203

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO OCCUPATIONAL LICENSING; ADDING DEFINITIONS TO THE
12 MASSAGE THERAPY PRACTICE ACT; REQUIRING LICENSURE OF
13 ESTABLISHMENTS WHERE MASSAGE THERAPY IS OFFERED OR PERFORMED;
14 PROVIDING A PENALTY; AMENDING AND ENACTING SECTIONS OF THE NMSA
15 1978.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Massage Therapy Practice
19 Act is enacted to read:

20 "[NEW MATERIAL] REQUIREMENTS FOR LICENSURE OF MASSAGE
21 THERAPY ESTABLISHMENTS.--

22 A. The board shall establish by rule procedures for
23 the licensure of massage therapy establishments and shall issue
24 a license to massage therapy establishments that meet the
25 requirements of the Massage Therapy Practice Act and rules

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1 adopted by the board pursuant to that act.

2 B. The board shall establish minimum standards of
3 health and safety for massage therapy establishments."

4 SECTION 2. A new section of the Massage Therapy Practice
5 Act is enacted to read:

6 "[NEW MATERIAL] MASSAGE THERAPY ESTABLISHMENT LICENSURE,
7 RENEWAL, SUSPENSION AND REVOCATION--APPLICABILITY.--

8 A. On or after January 1, 2026, a person shall not
9 maintain, manage or operate a massage therapy establishment
10 unless the establishment is a licensed massage therapy
11 establishment.

12 B. Massage therapy establishment licenses shall
13 expire biennially. Expiration dates shall be established by
14 rule of the board.

15 C. A license shall be renewed by submitting a
16 renewal application on a form provided by the board.

17 D. A sixty-day grace period shall be allowed each
18 licensee after the end of the renewal period, during which time
19 a license may be renewed upon payment of the renewal fee and a
20 late fee as prescribed by the board.

21 E. Proceedings to determine whether to suspend or
22 revoke the license of a massage therapy establishment may be
23 instituted by sworn complaint of any individual, including
24 members of the board, and shall conform with the provisions of
25 the Uniform Licensing Act."

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1 SECTION 3. Section 61-12C-3 NMSA 1978 (being Laws 1991,
2 Chapter 147, Section 3, as amended) is amended to read:

3 "61-12C-3. DEFINITIONS.--As used in the Massage Therapy
4 Practice Act:

5 A. "board" means the massage therapy board;

6 B. "continuing education" means courses, seminars,
7 workshops and classes in areas related to the practice of
8 massage therapy, such as:

- 9 (1) massage;
- 10 (2) bodywork;
- 11 (3) health care;
- 12 (4) psychology;
- 13 (5) anatomy and physiology;
- 14 (6) business;
- 15 (7) insurance;
- 16 (8) ethics;
- 17 (9) professional development;
- 18 (10) movement therapy;
- 19 (11) stress management;
- 20 (12) exempt modalities listed in Subsection C
21 of Section 61-12C-5.1 NMSA 1978;
- 22 (13) cardiopulmonary resuscitation or first
23 aid; and
- 24 (14) complementary alternative medicine
25 modalities determined by the board to be related to the

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1 practice of massage therapy;

2 C. "continuing education provider" means:

3 (1) an individual who was an active
4 New Mexico registered independent massage therapy instructor on
5 ~~[the effective date of this 2019 act]~~ February 4, 2019;

6 (2) a massage therapy school regulated by the
7 requisite regulatory agency where the massage therapy school is
8 located;

9 (3) a national or international professional
10 association for massage therapists;

11 (4) an individual or an organization approved
12 by a national or international massage therapy continuing
13 education approval agency;

14 (5) a health care professional organization;
15 or

16 (6) accredited post-secondary educational
17 institutions;

18 D. "department" means the regulation and licensing
19 department;

20 E. "home-based establishment" means a physical
21 premises where massage therapy may be offered by not more than
22 two licensed massage therapists who personally reside at the
23 premises, the massage therapy offered is only incidental and
24 secondary to the use of the premises for a dwelling and the use
25 of the premises for the offering of massage therapy is in

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1 compliance with any applicable county or municipal zoning or
2 business licensing requirements;

3 ~~[E.]~~ F. "jurisprudence" means the statutes and
4 rules of the state pertaining to the practice of massage
5 therapy;

6 ~~[F.]~~ G. "massage therapist" means an individual
7 licensed to practice massage therapy pursuant to the Massage
8 Therapy Practice Act;

9 ~~[G.]~~ H. "massage therapy" means the treatment of
10 soft tissues for therapeutic purposes, primarily comfort and
11 relief of pain; it is a health care service that includes
12 gliding, kneading, percussion, compression, vibration,
13 friction, nerve strokes, stretching the tissue and exercising
14 the range of motion and may include the use of oils, salt
15 glows, hot or cold packs or hydrotherapy. Synonymous terms for
16 massage therapy include massage, therapeutic massage, body
17 massage, myomassage, bodywork, body rub or any derivation of
18 those terms. "Massage therapy" does not include the diagnosis
19 or treatment of illness or disease or any service or procedure
20 for which a license to practice medicine, nursing,
21 chiropractic, physical therapy, occupational therapy,
22 acupuncture or podiatry is required by law; ~~[and]~~

23 I. "massage therapy establishment" or "massage
24 establishment" means a place of business in which massage
25 therapy is offered or performed but shall not include:

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1 (1) a health care facility licensed pursuant
2 to Section 24A-1-5 NMSA 1978;

3 (2) a health care facility owned, managed or
4 operated by a federal agency of the United States, including
5 the department of defense, the veterans health administration
6 and the bureau of Indian affairs of the department of the
7 interior;

8 (3) a health care facility authorized under
9 Chapter 23 NMSA 1978;

10 (4) health care offices owned, or directly
11 operated or managed on a daily basis, by an individual or
12 individuals licensed pursuant to:

13 (a) the Medical Practice Act;

14 (b) the Chiropractic Physician Practice
15 Act;

16 (c) the Physician Assistant Act;

17 (d) the Physical Therapy Act; or

18 (e) the Nursing Practice Act;

19 (5) a home-based establishment; and

20 (6) services provided by a licensed massage
21 therapist to a client at a premises selected by the client to
22 receive massage therapy, such as the client's home or place of
23 business, and such premises is not under the ownership, custody
24 or control of the massage therapist; and

25 [H.] J. "massage therapy school" means a facility

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1 providing an educational program in massage therapy that is
2 registered with the board."

3 SECTION 4. Section 61-12C-8 NMSA 1978 (being Laws 1991,
4 Chapter 147, Section 8, as amended) is amended to read:

5 "61-12C-8. BOARD POWERS.--The board has the power to:

6 A. adopt and file, in accordance with the State
7 Rules Act, rules necessary to carry out the provisions of the
8 Massage Therapy Practice Act, in accordance with the provisions
9 of the Uniform Licensing Act;

10 B. provide for the evaluation of the qualifications
11 of applicants for licensure as a massage therapist or
12 registration as a massage therapy school under the Massage
13 Therapy Practice Act;

14 C. provide for the issuance of massage therapist
15 licenses to applicants who meet the requirements of the Massage
16 Therapy Practice Act;

17 D. establish minimum curricula for massage therapy
18 schools and provide for the issuance and revocation of massage
19 therapy school registrations;

20 E. establish minimum standards for massage therapy
21 establishments and provide for the issuance and revocation of
22 massage therapy establishment licenses;

23 [~~E.~~] F. establish instructor qualifications for
24 hands-on massage therapy instruction within the minimum
25 curricula;

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1 ~~[F.]~~ G. provide for the inspection, when required,
2 of the business premises of any licensee or registrant ~~[during~~
3 ~~regular business hours]~~ as follows:

4 (1) inspections of massage establishments may
5 be conducted at any time, including when the massage
6 establishment is in operation or customers are present; and

7 (2) the licensee or operator of a massage
8 establishment shall be given an opportunity to accompany the
9 board official conducting an inspection and to receive a report
10 of the inspection within fourteen days after the inspection;

11 ~~[G.]~~ H. establish minimum training and educational
12 standards for licensure as a massage therapist;

13 ~~[H.]~~ I. pursuant to the Uniform Licensing Act,
14 conduct hearings on charges against applicants or licensees and
15 take actions described in Section 61-1-3 NMSA 1978;

16 ~~[I.]~~ J. bring an action for injunctive relief in
17 district court seeking to enjoin a person from violating the
18 provisions of the Massage Therapy Practice Act;

19 ~~[J.]~~ K. issue cease and desist orders to persons
20 violating the provisions of the Massage Therapy Practice Act or
21 any rule adopted by the board pursuant to that act;

22 ~~[K.]~~ L. adopt an annual budget;

23 ~~[L.]~~ M. adopt a code of professional conduct for
24 massage therapists;

25 ~~[M.]~~ N. provide for the investigation of complaints

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1 against licensees and registrants; and

2 [N-] O. publish at least annually combined or
3 separate lists of licensed massage therapists and registered
4 massage therapy schools."

5 SECTION 5. Section 61-12C-11 NMSA 1978 (being Laws 1991,
6 Chapter 147, Section 11, as amended) is amended to read:

7 "61-12C-11. DISPLAY OF LICENSE OR REGISTRATION.--

8 A. A massage therapy license or registration issued
9 by the board shall at all times be posted in a conspicuous
10 place in the holder's principal place of business.

11 B. An original or renewal massage therapy license
12 or registration issued by the board on or after July 1, 2025
13 shall include a current photograph of the licensee or
14 registration holder."

15 SECTION 6. Section 61-12C-17 NMSA 1978 (being Laws 1991,
16 Chapter 147, Section 17, as amended) is amended to read:

17 "61-12C-17. LICENSE RENEWAL--CONTINUING EDUCATION.--

18 A. Except as provided for initial licensure in
19 Subsection B of Section 61-12C-9 NMSA 1978, massage therapy
20 licenses shall expire biennially. Expiration dates shall be
21 established by rule.

22 B. The board may establish continuing education
23 requirements as a condition of the renewal of massage therapy
24 licenses.

25 C. All courses offered by continuing education

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1 providers shall be acceptable to meet continuing education
2 requirements regardless of the location where the course is
3 offered.

4 D. A continuing education provider who is an
5 individual who was an active New Mexico registered independent
6 massage therapy instructor on [~~the effective date of this 2019~~
7 ~~act~~] February 4, 2019 shall submit to the board a syllabus and
8 one-time fee for any course not previously approved by the
9 board.

10 E. Within thirty days of application, the board may
11 approve or deny the application of an individual who is not a
12 continuing education provider to offer a particular continuing
13 education course; provided that the individual submits:

- 14 (1) a copy of any relevant license;
15 (2) proof of a minimum of two years'
16 experience in the area of instruction;
17 (3) a course syllabus for the proposed course;
18 (4) a resume; and
19 (5) a one-time fee to be determined by the
20 board by rule.

21 F. A license shall be renewed by submitting a
22 renewal application on a form provided by the board.

23 G. A sixty-day grace period shall be allowed each
24 licensee after the end of the renewal period, during which time
25 a license may be renewed upon payment of the renewal fee and a

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1 late fee as prescribed by the board."

2 SECTION 7. Section 61-12C-18 NMSA 1978 (being Laws 1991,
3 Chapter 147, Section 18, as amended) is amended to read:

4 "61-12C-18. INACTIVE STATUS.--

5 A. A massage therapy license not renewed at the end
6 of the sixty-day grace period shall be placed on inactive
7 status for a period not to exceed two years. At the end of two
8 years, if the license has not been reactivated, it shall
9 automatically expire.

10 B. If within a period of two years from the date
11 the license was placed on inactive status the licensee wishes
12 to resume practice, the licensee shall notify the board in
13 writing, and, upon proof of completion of any continuing
14 education or refresher courses prescribed by rule of the board
15 and payment of an amount set by the board in lieu of all lapsed
16 renewal fees, the license shall be restored in full.

17 C. A massage therapy establishment license not
18 renewed at the end of the sixty-day grace period shall be
19 placed on inactive status for a period not to exceed two years.
20 At the end of two years, if the license has not been
21 reactivated, it shall automatically expire.

22 D. If within a period of two years from the date
23 the license was placed on inactive status the licensee wishes
24 to resume maintenance, management or operation of the massage
25 therapy establishment, the licensee shall notify the board in

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1 writing and, upon proof of compliance with health and safety
2 standards prescribed by rule of the board and payment of an
3 amount set by the board in lieu of all lapsed renewal fees, the
4 license shall be restored in full."

5 SECTION 8. Section 61-12C-24 NMSA 1978 (being Laws 1991,
6 Chapter 147, Section 24, as amended) is amended to read:

7 "61-12C-24. SUSPENSION, REVOCATION AND REINSTATEMENT OF
8 LICENSES.--

9 A. Pursuant to the Uniform Licensing Act, the board
10 may take disciplinary action against an individual licensed
11 pursuant to the Massage Therapy Practice Act.

12 B. The board has authority to take an action set
13 forth in Section 61-1-3 NMSA 1978 upon a finding by the board
14 that the licensee:

15 (1) is guilty of fraud, deceit or
16 misrepresentation;

17 (2) attempted to use as the licensee's own the
18 license of another;

19 (3) allowed the use of the licensee's license
20 by another;

21 (4) has been adjudicated as mentally
22 incompetent by regularly constituted authorities;

23 (5) has been convicted of a crime that
24 substantially relates to the qualifications, functions or
25 duties of a massage therapist. A copy of the record of

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1 conviction, certified by the clerk of the court entering the
2 conviction, is conclusive evidence of conviction;

3 (6) is guilty of unprofessional or unethical
4 conduct or a violation of the code of ethics;

5 (7) is habitually or excessively using
6 controlled substances or alcohol;

7 (8) is guilty of false, deceptive or
8 misleading advertising;

9 (9) is guilty of aiding, assisting or
10 advertising an unlicensed individual in the practice of massage
11 therapy;

12 (10) is grossly negligent or incompetent in
13 the practice of massage therapy;

14 (11) has had a license to practice massage
15 therapy revoked, suspended or denied in any jurisdiction,
16 territory or possession of the United States or another country
17 for acts of the licensee similar to acts described in this
18 section. A certified copy of the [~~record of conviction~~] order
19 of revocation, suspension or denial shall be conclusive
20 evidence of the [~~conviction; or~~] revocation, suspension or
21 denial;

22 (12) performs massage therapy at or maintains,
23 manages or operates a massage therapy establishment that is not
24 licensed pursuant to the Massage Therapy Practice Act;

25 (13) refused to allow an inspection of a

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1 massage establishment; provided that the board official
2 tendered proper identification to the licensee or operator of
3 the massage establishment prior to the refusal; or

4 [~~(12)~~] (14) is guilty of failing to comply
5 with a provision of the Massage Therapy Practice Act or rules
6 of the board adopted pursuant to that act and filed in
7 accordance with the State Rules Act.

8 C. Disciplinary proceedings may be instituted by
9 sworn complaint of any individual, including members of the
10 board, and shall conform with the provisions of the Uniform
11 Licensing Act.

12 D. The board shall establish the guidelines for the
13 disposition of disciplinary cases. Guidelines may include
14 minimum and maximum fines, periods of probation, conditions of
15 probation or reissuance of a license.

16 E. Licensees who have been found culpable and
17 sanctioned by the board shall be responsible for the payments
18 of all costs of the disciplinary proceedings."

19 SECTION 9. Section 61-12C-24.1 NMSA 1978 (being Laws
20 2019, Chapter 40, Section 13) is amended to read:

21 "61-12C-24.1. DENIAL OF LICENSE.--

22 A. Pursuant to the Uniform Licensing Act, the board
23 may deny the issuance of a massage therapist license to an
24 applicant.

25 B. The board has authority to take an action set
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1 forth in Section 61-1-3 NMSA 1978 upon a finding by the board
2 that the applicant:

3 (1) is guilty of fraud, deceit or
4 misrepresentation;

5 (2) attempted to use as the applicant's own
6 the license of another;

7 (3) allowed the use by another of the
8 applicant's license issued in another jurisdiction;

9 (4) has been adjudicated as mentally
10 incompetent by regularly constituted authorities;

11 (5) has been convicted of a crime that
12 substantially relates to the qualifications, functions or
13 duties of a massage therapist. A copy of the record of
14 conviction, certified by the clerk of the court entering the
15 conviction, is conclusive evidence of conviction;

16 (6) is guilty of unprofessional or unethical
17 conduct or a violation of the code of ethics;

18 (7) is habitually or excessively using
19 controlled substances or alcohol;

20 (8) is guilty of false, deceptive or
21 misleading advertising;

22 (9) is guilty of aiding, assisting or
23 advertising the practice of massage therapy in New Mexico
24 without a New Mexico license;

25 (10) is grossly negligent or incompetent in

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1 the practice of massage therapy;

2 (11) has had a license to practice massage
3 therapy revoked, suspended or denied in any jurisdiction,
4 territory or possession of the United States or another country
5 for acts of the applicant similar to acts described in this
6 section. A certified copy of the [~~record of conviction~~] order
7 of revocation, suspension or denial shall be conclusive
8 evidence of the [~~conviction; or~~] revocation, suspension or
9 denial;

10 (12) has performed massage therapy at or has
11 maintained, managed or operated a massage therapy establishment
12 that is not licensed pursuant to the Massage Therapy Practice
13 Act; or

14 [~~(12)~~] (13) is guilty of failing to comply
15 with a provision of the Massage Therapy Practice Act or rules
16 of the board adopted pursuant to that act and filed in
17 accordance with the State Rules Act."

18 SECTION 10. Section 61-12C-27 NMSA 1978 (being Laws 1993,
19 Chapter 173, Section 20, as amended) is amended to read:

20 "61-12C-27. OFFENSES--CRIMINAL PENALTIES.--An individual
21 who does any of the following is guilty of a misdemeanor and
22 shall be sentenced pursuant to Section 31-19-1 NMSA 1978:

23 A. violates a provision of the Massage Therapy
24 Practice Act or rules adopted pursuant to that act;

25 B. renders or attempts to render massage therapy

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1 services without the required current valid license issued by
2 the board; [~~or~~]

3 C. maintains, manages or operates a massage therapy
4 establishment that is not licensed pursuant to the Massage
5 Therapy Practice Act; or

6 [~~C.~~] D. advertises or uses a designation, diploma
7 or certificate implying that the individual is a massage
8 therapist or massage therapy school unless the individual holds
9 a current valid license or registration issued by the board."

10 SECTION 11. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2025.