

SENATE BILL 246

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Pat Woods and Heather Berghmans

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO OCCUPATIONAL LICENSURE; AMENDING AND ENACTING SECTIONS OF THE MASSAGE THERAPY PRACTICE ACT; DEFINING "MASSAGE THERAPY ESTABLISHMENT"; REQUIRING LICENSURE OF MASSAGE THERAPY ESTABLISHMENTS; PROVIDING A PENALTY.

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

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

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

A. "board" means the massage therapy board;

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

- (1) massage;
- (2) bodywork;
- (3) health care;
- (4) psychology;
- (5) anatomy and physiology;
- (6) business;
- (7) insurance;
- (8) ethics;
- (9) professional development;
- (10) movement therapy;
- (11) stress management;
- (12) exempt modalities listed in Subsection C

of Section 61-12C-5.1 NMSA 1978;

(13) cardiopulmonary resuscitation or first aid; and

(14) complementary alternative medicine modalities determined by the board to be related to the practice of massage therapy;

C. "continuing education provider" means:

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

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

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

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

(5) a health care professional organization;
or

(6) accredited post-secondary educational
institutions;

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

E. "jurisprudence" means the statutes and rules of
the state pertaining to the practice of massage therapy;

F. "massage therapist" means an individual licensed
to practice massage therapy pursuant to the Massage Therapy
Practice Act;

G. "massage therapy" means the treatment of soft
tissues for therapeutic purposes, primarily comfort and relief
of pain; it is a health care service that includes gliding,

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kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law; [and]

H. "massage therapy establishment" means a facility or premises at which massage therapy is offered or performed; provided that "massage therapy establishment" does not include:

(1) a health facility:

(a) licensed pursuant to Section 24A-1-5 NMSA 1978;

(b) owned, managed or operated by a federal agency of the United States, including the United States department of defense, the veterans health administration of the United States department of veterans affairs or the bureau of Indian affairs of the United States department of the interior; or

(c) authorized under Chapter 23 NMSA 1978;

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(2) a health care facility as defined in
Section 59A-57-3 NMSA 1978; or

(3) a health care office or premises owned or
directly operated or managed on a daily basis by a person or
persons licensed pursuant to:

(a) the Chiropractic Physician Practice
Act;

(b) the Medical Practice Act;

(c) the Nursing Practice Act;

(d) the Physical Therapy Act; or

(e) the Physician Assistant Act; and

[H.] I. "massage therapy school" means a facility
providing an educational program in massage therapy that is
registered with the board."

SECTION 2. Section 61-12C-8 NMSA 1978 (being Laws 1991,
Chapter 147, Section 8, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[K.] L. adopt an annual budget;

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

[M.] N. provide for the investigation of complaints against licensees and registrants; and

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

SECTION 3. Section 61-12C-11 NMSA 1978 (being Laws 1991, Chapter 147, Section 11, as amended) is amended to read:

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

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

B. An original or a renewal massage therapy license or registration issued by the board on or after July 1, 2026

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shall include a current photograph of the licensee or registration holder."

SECTION 4. Section 61-12C-17 NMSA 1978 (being Laws 1991, Chapter 147, Section 17, as amended) is amended to read:

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

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

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

C. All courses offered by continuing education providers shall be acceptable to meet continuing education requirements regardless of the location where the course is offered.

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

E. Within thirty days of application, the board may approve or deny the application of an individual who is not a continuing education provider to offer a particular continuing

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education course; provided that the individual submits:

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

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

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

SECTION 5. Section 61-12C-18 NMSA 1978 (being Laws 1991, Chapter 147, Section 18, as amended) is amended to read:

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

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

B. If within a period of two years from the date the massage therapy license was placed on inactive status the licensee wishes to resume practice, the licensee shall notify

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the board in writing, and, upon proof of completion of any continuing education or refresher courses prescribed by rule of the board and payment of an amount set by the board in lieu of all lapsed renewal fees, the license shall be restored in full.

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

D. If within a period of two years from the date a massage therapy establishment license was placed on inactive status pursuant to this section the licensee wishes to resume maintenance, management or operation of the massage therapy establishment, the licensee shall notify the board in writing, and, upon proof of compliance with health and safety standards as prescribed by rule of the board, along with payment in an amount set by the board in lieu of all lapsed renewal fees, the license shall be restored."

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

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

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

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

- (1) is guilty of fraud, deceit or misrepresentation;
- (2) attempted to use as the licensee's own the license of another;
- (3) allowed the use of the licensee's license by another;
- (4) has been adjudicated as mentally incompetent by regularly constituted authorities;
- (5) has been convicted of a crime that substantially relates to the qualifications, functions or duties of a massage therapist. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;
- (6) is guilty of unprofessional or unethical conduct or a violation of the code of ethics;
- (7) is habitually or excessively using controlled substances or alcohol;
- (8) is guilty of false, deceptive or misleading advertising;
- (9) is guilty of aiding, assisting or advertising an unlicensed individual in the practice of massage therapy;

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

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

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

(13) refuses to allow an inspection of a massage therapy establishment; provided that the board-designated official provides proper identification to the licensee or operator of the massage therapy establishment; or

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

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

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

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

SECTION 7. Section 61-12C-24.1 NMSA 1978 (being Laws 2019, Chapter 40, Section 13) is amended to read:

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

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

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

- (1) is guilty of fraud, deceit or misrepresentation;
- (2) attempted to use as the applicant's own the license of another;
- (3) allowed the use by another of the applicant's license issued in another jurisdiction;
- (4) has been adjudicated as mentally incompetent by regularly constituted authorities;
- (5) has been convicted of a crime that

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substantially relates to the qualifications, functions or duties of a massage therapist. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;

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

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

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

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

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

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

(12) has performed massage therapy SJC→for compensation←SJC :

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(a) without holding a valid license at the time the massage therapy was performed; or

(b) at a massage therapy establishment that was not licensed at the time the massage therapy was performed SJC→after July 1, 2027←SJC ; or

(13) has at any time maintained, managed or operated a massage therapy establishment not licensed pursuant to the Massage Therapy Practice Act SJC→after July 1, 2027←SJC ; or

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

SECTION 8. Section 61-12C-27 NMSA 1978 (being Laws 1993, Chapter 173, Section 20, as amended) is amended to read:

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

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

B. renders or attempts to render massage therapy services without the required current valid license issued by the board; [ø]

C. maintains, manages or operates a massage therapy establishment that is not licensed pursuant to the Massage

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Therapy Practice Act; or

[G-] D. advertises or uses a designation, diploma or certificate implying that the individual is a massage therapist or massage therapy school unless the individual holds a current valid license or registration issued by the board."

SECTION 9. A new section of the Massage Therapy Practice Act is enacted to read:

"[NEW MATERIAL] MASSAGE THERAPY ESTABLISHMENT--LICENSE--REQUIREMENTS.--

A. The board shall establish by rule procedures for the licensure of massage therapy establishments and shall issue licenses to massage therapy establishments that meet the requirements of the Massage Therapy Practice Act and rules adopted by the board pursuant to that act.

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

SECTION 10. A new section of the Massage Therapy Practice Act is enacted to read:

"[NEW MATERIAL] MASSAGE THERAPY ESTABLISHMENT--LICENSE RENEWAL--SUSPENSION--REVOCATION--APPLICABILITY.--

A. On or after January 1, 2027, a person shall not maintain, manage or operate a massage therapy establishment unless the establishment is a licensed massage therapy establishment.

B. Massage therapy establishment licenses shall

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expire biennially. Expiration dates shall be established by rule of the board.

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

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

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

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.