

1 HB453
2 216004-3
3 By Representative Moore (P)
4 RFD: Boards, Agencies and Commissions
5 First Read: 08-MAR-22

1
2 ENROLLED, An Act,

3 Relating to the Alabama Board of Massage Therapy, to
4 amend Sections 34-43-3, 34-43-6, 34-43-7, 34-43-8, 34-43-9,
5 34-43-11, 34-43-12, 34-43-14, 34-43-15, 34-43-20, and
6 34-43-21, Code of Alabama 1975; to provide further for
7 definitions; to remove the requirement that no two board
8 members from the same congressional district serve at the same
9 time; to authorize the board to grant the executive director
10 the authority to approve licenses; to require massage therapy
11 establishments and schools to carry liability insurance; to
12 prohibit the advertising of services on sexually explicit
13 websites or online platforms; to revise the requirements for
14 licensure as a massage therapist and establishment licenses;
15 to provide further for the submission of applications for
16 licensure; to substantially revise fees and fines; to
17 authorize the board to adopt a program of continuing
18 education; and to repeal Section 34-43-10, Code of Alabama
19 1975, providing for a massage therapist examination.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 34-43-3, 34-43-6, 34-43-7,
22 34-43-8, 34-43-9, 34-43-11, 34-43-12, 34-43-14, 34-43-15,
23 34-43-20, and 34-43-21 of the Code of Alabama 1975, are
24 amended to read as follows:

25 "§34-43-3.

1 "For purposes of this chapter, the following terms
2 shall have the following meanings:

3 "(1) ADVERTISE. Distributing a card, flier, sign, or
4 device to any person or organization, or allowing any sign or
5 marking on any building, radio, television, or by advertising
6 by any other means designed to attract public attention.

7 "(2) BOARD. The Alabama Board of Massage Therapy
8 created pursuant to this chapter.

9 "(3) BOARD-APPROVED MASSAGE THERAPY SCHOOL. A school
10 where massage therapy is taught which is one of the following:

11 "a. If located in Alabama is approved by the board
12 as meeting the minimum established standards of training and
13 curriculum as determined by the board.

14 "b. If located outside of Alabama is recognized by
15 the board and by a regionally recognized professional
16 accrediting body.

17 "c. Is a postgraduate training institute accredited
18 by the Commission on Accreditation for Massage Therapy.

19 "(4) ESTABLISHMENT. A site, premises, or business
20 where massage therapy is practiced by a licensed massage
21 therapist.

22 "(5) EXAMINATION. A National Certification For
23 Therapeutic Massage and Bodywork Examination or Federation of
24 State Massage Therapy Boards Massage and Bodywork Licensing
25 Examination administered by an independent agency or another

1 nationally or internationally accredited exam administered by
2 an independent agency per approval of the board. The
3 examination will be accredited by the National Committee for
4 Certifying Agencies. The board retains the right to administer
5 a written, oral, or practical examination.

6 "(6) LICENSE. The credential issued by the board
7 which allows the licensee to engage in the safe and ethical
8 practice of massage therapy.

9 "(7) MASSAGE THERAPIST. A person licensed pursuant
10 to this chapter who practices or administers massage therapy
11 or touch therapy modalities to a patron for compensation.

12 "(8) MASSAGE THERAPY INSTRUCTOR. A licensed massage
13 therapist approved by the board to teach the practice of
14 massage therapy.

15 "(9) PERSON. Any individual, firm, corporation,
16 partnership, organization, association, or other legal entity.

17 "(10) SEXUALLY ORIENTED BUSINESS. A sex parlor,
18 massage parlor, nude studio, modeling studio, love parlor,
19 adult bookstore, adult movie theater, adult video arcade,
20 adult motel, or other commercial enterprise which has ~~as its~~
21 ~~primary business~~ the offering for sale, rent, or exhibit, or
22 the exhibit of, items or services intended to provide sexual
23 stimulation or sexual gratification to the customer.

1 "(11) STUDENT OF MASSAGE THERAPY. Any person
2 currently enrolled in an Alabama massage therapy school
3 program approved by the board.

4 "~~(12) TEMPORARY PERMIT. A temporary permit issued at~~
5 ~~the request of a massage therapist who is qualified according~~
6 ~~to the Alabama massage therapy law prior to approval by the~~
7 ~~board and not to exceed six months.~~

8 "~~(13)~~ (12) THERAPEUTIC MASSAGE AND RELATED TOUCH
9 THERAPY MODALITIES. The mobilization of the soft tissue which
10 may include skin, fascia, tendons, ligaments, and muscles, for
11 the purpose of establishing and maintaining good physical
12 condition. The term shall include effleurage, petrissage,
13 tapotement, compression, vibration, stretching, heliotherapy,
14 superficial hot and cold applications, topical applications,
15 or other therapy which involves movement either by hand,
16 forearm, elbow, or foot, for the purpose of therapeutic
17 massage. Massage therapy may include the external application
18 and use of herbal or chemical preparations and lubricants such
19 as salts, powders, liquids, nonprescription creams, mechanical
20 devices such as T-bars, thumpers, body support systems, heat
21 lamps, hot and cold packs, salt glow, steam cabinet baths or
22 hydrotherapy. The term includes any massage, movement therapy,
23 massage technology, myotherapy, massotherapy, oriental massage
24 techniques, structural integration, acupressure, or polarity
25 therapy. The term shall not include laser therapy, microwave,

1 injection therapy, manipulation of the joints, or any
2 diagnosis or treatment of an illness that normally involves
3 the practice of medicine, chiropractic, physical therapy,
4 podiatry, nursing, midwifery, occupational therapy,
5 veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or
6 naturopathics.

7 "§34-43-6.

8 "(a) There is created the Alabama Board of Massage
9 Therapy. The purpose of the board is to protect the health,
10 safety, and welfare of the public by ensuring that licensed
11 massage therapists, massage therapy schools, and massage
12 therapy instructors meet prescribed standards of education,
13 competency, and practice. To accomplish this mission, the
14 board shall establish standards pursuant to this chapter to
15 complete all board functions in a timely and effective manner
16 and to provide open and immediate access to all relevant
17 public information. The board shall communicate its
18 responsibilities and services to the public as part of its
19 consumer protection duties. The board shall develop and
20 implement a long range plan to ensure effective regulation and
21 consumer protection.

22 "(b) The board shall consist of seven members
23 appointed by the Governor, subject to confirmation by the
24 Senate. No member of the board shall serve more than two full
25 consecutive terms. The members initially appointed to the

1 board shall be appointed not later than July 16, 1996. Five of
2 the members initially appointed to the board shall have been
3 actively engaged in the practice of massage therapy for not
4 less than three consecutive years prior to the date of their
5 appointment to the board. Successor members to these initial
6 five appointees shall be licensees of the board. Two members
7 shall be public members who shall not be licensed, nor have
8 been licensed in the past, and shall not have any direct
9 financial interest in the massage therapy profession. Each
10 board member shall be a high school graduate or shall have
11 received a graduate equivalency diploma. Each board member
12 shall be selected upon personal merit and qualifications, not
13 per membership or affiliation with an association. Each board
14 member shall be a citizen of the United States and this state
15 and a resident of this state for two years immediately
16 preceding the appointment. The membership of the board shall
17 be inclusive and reflect the racial, gender, geographic,
18 urban/rural, and economic diversity of the state. ~~As the terms~~
19 ~~of members serving on April 28, 2011, expire, or as vacancies~~
20 ~~occur, new members shall be appointed so that not more than~~
21 ~~one member from each United States Congressional District is~~
22 ~~appointed to serve at the same time.~~

23 "(c) Of the initial seven appointees to the board,
24 three members shall be appointed for terms ending September
25 30, 1997, and four members shall be appointed for terms ending

1 September 30, 1999. Thereafter, successors shall be appointed
2 for terms of four years, each term expiring on September 30.

3 "(d) Vacancies on the board occurring prior to the
4 expiration of a term shall be filled by the Governor within 30
5 days of the vacancy to serve for the remainder of the
6 unexpired term. Each member of the board shall serve until his
7 or her successor has been duly appointed and qualified.

8 "(e) At the first meeting, and annually thereafter
9 in the month of October, the board shall elect a chair and
10 vice chair from its membership.

11 "(f) The board shall hold its first meeting within
12 30 days after the initial members are appointed. The board
13 shall hold meetings during the year as it determines
14 necessary, two of which shall be the biannual meetings for the
15 purpose of reviewing license applications. Additional meetings
16 may be held at the discretion of the chair or upon written
17 request of any three members of the board. A quorum of the
18 board shall be a majority of the current appointed board
19 members.

20 "(g) Board members shall not receive compensation
21 for their services, but shall receive the same per diem and
22 allowance as provided to state employees for each day the
23 board meets and conducts business.

1 "(h) The board shall ~~promulgate~~ adopt the rules
2 necessary to implement this chapter pursuant to the
3 Administrative Procedure Act.

4 "(i) The board may employ, and at its pleasure
5 discharge, an executive secretary and other officers and
6 employees which may be necessary, including an attorney, to
7 implement this chapter. The board shall also outline the
8 duties and fix the compensation and expense allowances of the
9 employees.

10 "(j) An affirmative vote of a majority of the
11 members of the board shall be required to grant, suspend, or
12 revoke a license to practice massage therapy or a license to
13 operate a massage therapy establishment. The board may grant
14 authority to the executive director to approve licenses.

15 "(k) The board shall be financed only from income
16 accruing to it from fees, licenses, other charges and funds
17 collected by it, and any monies that are appropriated to it by
18 the Legislature.

19 "(l) Each board member shall be accountable to the
20 Governor for the proper performance of his or her duties as a
21 member of the board. The board shall report to the Governor
22 annually and at other times as requested by the Governor. The
23 Governor shall investigate any complaints or unfavorable
24 reports concerning the actions of the board and take
25 appropriate action thereon, including removal of any board

1 member for misfeasance, malfeasance, neglect of duty,
2 commission of a felony, incompetence, or permanent inability
3 to perform official duties. A board member may be removed at
4 the request of the board after failing to attend two
5 consecutive properly noticed meetings.

6 "(m) Members of the board are immune from liability
7 for all good faith acts performed in the execution of their
8 duties as members of the board.

9 "(n) Appointees to the board shall take the
10 constitutional oath of office and file it in the office of the
11 Governor before undertaking any duties as a board member. Upon
12 receiving the oath, the Governor shall issue a certificate of
13 appointment to each appointee.

14 "§34-43-7.

15 "(a) By rule, the board shall make provisions to do
16 all of the following:

17 "(1) Examine and qualify for examination applicants
18 for licensure and issue a license to each successful
19 applicant.

20 "(2) Adopt a seal, which shall be affixed to all
21 licenses issued by the board.

22 "(3) Prescribe application forms for examination and
23 licensure and assess and collect fees pursuant to this
24 chapter.

1 "(4) Maintain a complete record of all licensed
 2 massage therapists and annually prepare a roster of the names
 3 and addresses of the licensees. A copy of this roster shall be
 4 made available to any person requesting it, upon payment of a
 5 fee set by the board in an amount sufficient to cover the
 6 costs of its publication and distribution.

7 "(5) Provide for the investigation of persons who
 8 may be violating this chapter.

9 "(6) Adopt and revise rules and regulations pursuant
 10 to the Administrative Procedure Act, including the adoption of
 11 rules concerning unprofessional conduct.

12 "(7) Provide a copy of this chapter to all persons
 13 licensed under this chapter and to all applicants for
 14 licensure.

15 "(8) Adopt rules that require massage therapists, massage
 16 therapy establishments, and massage therapy schools to
 17 carry professional and general liability insurance with an "A"
 18 rated or better insurance carrier in the amount of at least
 19 one million dollars (\$1,000,000). The massage therapist shall
 20 produce evidence of coverage upon request of the board.

21 "(9) Have other powers necessary and proper for the
 22 performance of official duties.

23 "(b) By rule, the board may do any of the following:

1 "(1) Accept or deny the application of any person
2 applying for licensure as a massage therapist upon an
3 affirmative vote of a majority of the board.

4 "(2) Establish criteria for certifying massage
5 therapy instructors.

6 "(3) Adopt an annual budget and authorize necessary
7 expenditures from fees and other available appropriations,
8 provided, in no event shall the expenditures of the board
9 exceed the revenues in any fiscal year.

10 "(4) Adopt a code of ethics.

11 "(5) Provide for the inspection of the business
12 premises of any licensee during normal business hours.

13 "(6) Establish a list of approved massage therapy
14 schools.

15 "§34-43-8.

16 "(a) No person may perform the duties of a massage
17 therapist unless he or she possesses a current license issued
18 pursuant to this chapter.

19 "(b) A licensed massage therapist may not perform
20 massage therapy, whether or not for compensation, for a
21 sexually oriented business.

22 "(c) A licensed massage therapist shall not
23 advertise or offer to perform services outside the scope of
24 his or her expertise, experience, and education for clients
25 who are ill, or those with physical dysfunction(s), unless

1 such services are performed in conjunction with a licensed
2 physician, physical therapist, or chiropractor.

3 "(d) A licensed massage therapist or licensed
4 massage therapy establishment may not advertise or offer to
5 perform services on any sexually explicit website or online
6 platform that promotes prostitution, sexually explicit
7 services, or human trafficking.

8 "§34-43-9.

9 "(a) A person desiring to be licensed as a massage
10 therapist shall apply to the board on forms provided by the
11 board. Unless licensed pursuant to subsection (b), applicants
12 for licensure shall submit evidence satisfactory to the board
13 that they have met each of the following requirements:

14 ~~"(1) Satisfactorily completed a minimum of 500 hours~~
15 ~~of supervised courses of instruction which shall include, but~~
16 ~~not be limited to, anatomy, pathology, physiology, massage~~
17 ~~techniques, clinical practices, ethics, health, hygiene, and~~
18 ~~related subjects. The board shall determine how the 500 hours~~
19 ~~of instruction shall be broken down. The course of instruction~~
20 ~~may be provided by a massage therapy school approved by the~~
21 ~~board. The minimum 500 hours shall consist of the following:~~
22 ~~325 hours dedicated to the study of basic massage therapy~~
23 ~~techniques and clinical practice related modalities; 125 hours~~
24 ~~dedicated to the study of anatomy, pathology, and physiology;~~
25 ~~and an additional 50 hours of discretionary related course~~

1 ~~work, including, but not limited to, hydrotherapy, business~~
2 ~~practices and professional ethics, health and hygiene, and~~
3 ~~cardiopulmonary resuscitation and first aid. Beginning January~~
4 ~~1, 1998, applicants for licensure shall be required to~~
5 ~~complete a minimum of~~ 650 hours of instruction. By rule of the
6 board, the minimum 650 hours shall consist of the following:
7 100 hours of anatomy and physiology to include 35 hours of
8 myology, 15 hours of osteology, 10 hours of circulatory
9 system, and 10 hours of nervous system, with the remaining 30
10 hours to address other body systems at the discretion of the
11 school; 250 hours of basic massage therapy, the
12 contradistinctions of massage therapy, and related touch
13 therapy modalities, to include a minimum of 50 hours of
14 supervised massage; 50 hours to include business,
15 hydrotherapy, first aid, cardiopulmonary resuscitation, and
16 professional ethics; and 250 hours of electives to be
17 determined by the school. The board may adopt a rule to
18 further increase the minimum number of hours of instruction
19 required for licensure, not to exceed the number of hours
20 recommended by the National Certification Board for
21 Therapeutic Massage and Bodywork. Before performing
22 therapeutic massage on an animal, a massage therapist shall
23 graduate from a nationally approved program and complete at
24 least 100 hours of postgraduate training and education in
25 animal anatomy, pathology, and physiology for the type of

1 animal upon which the massage therapist wishes to perform
 2 therapeutic massage.

3 ~~"(2) Passed the National Certification Exam for~~
 4 ~~Therapeutic Massage and Bodywork offered by the National~~
 5 ~~Certification Board for Therapeutic Massage and Bodywork or an~~
 6 ~~examination of equivalent stature that is accredited by the~~
 7 ~~National Committee for Certifying Agencies~~ Successfully passed
 8 a national standardized examination approved by the board.

9 "(3) Completed a criminal history check.

10 "(4) Paid all applicable fees.

11 "(b) Notwithstanding the requirements in
 12 subdivisions (1) and (2) of subsection (a), the board may
 13 license an applicant if the applicant is licensed or
 14 registered in another state, which, in the opinion of the
 15 board, has standards of practice or licensure that are equal
 16 to or stricter than the requirements imposed by this chapter
 17 at the time of licensure in that state.

18 "(c) Notwithstanding any other provision of this
 19 section to the contrary, each applicant for licensure shall be
 20 a citizen of the United States or, if not a citizen of the
 21 United States, a person who is legally present in the United
 22 States with appropriate documentation from the federal
 23 government.

24 "(d) The board may notify each applicant of the
 25 acceptance or rejection of his or her application. If the

1 application is rejected, the board shall list the reasons for
2 rejection.

3 "§34-43-11.

4 "(a) Establishments shall be licensed by the board.
5 A sexually oriented business may not be licensed as an
6 establishment and shall not operate as an establishment
7 licensed pursuant to this chapter.

8 "(b) Establishments shall employ only licensed
9 massage therapists to perform massage therapy.

10 ~~"(c) The board shall provide by rule, for a fair and
11 reasonable procedure to grant exemptions from the licensure
12 requirement of this section when the applicant can show that
13 the advertising of massage therapy services is incidental to
14 the primary function of his or her business. No such exemption
15 shall be granted to a sexually oriented business.~~

16 "(c) Each establishment shall employ at least one
17 licensed massage therapist who is registered with the board as
18 the individual designated to ensure the establishment follows
19 state law and administrative rules.

20 "(d) An establishment license issued pursuant to
21 this chapter is not assignable or transferable.

22 ~~"(e) Subsequent to an official complaint, the board
23 may request a criminal background check of the establishment's
24 licensees through the district attorney of the circuit in
25 which the licensee is located Each unlicensed massage~~

1 therapist applying for an establishment license shall be
2 subject to a criminal history check. No licensed massage
3 therapist shall be subject to an additional criminal history
4 check when applying for an establishment license.

5 "(f) An establishment owned by an individual who is
6 not a resident of this state shall be subject to an initial
7 inspection before licensure. The amount of the initial
8 inspection fee shall be determined by rule of the board.

9 "§34-43-12.

10 "(a) Applications for licensure or renewal shall be
11 on forms provided by the board and shall be accompanied by the
12 proper fee. ~~The application shall be legible, either printed~~
13 ~~in black ink or typed. Applications sent by facsimile shall~~
14 ~~not be accepted.~~ A two-by-two photograph, taken no more than
15 six months earlier, showing a frontal view of the head and
16 shoulders of the applicant, shall be submitted with the
17 application. All documents shall be submitted in English.

18 "(b) Each applicant for licensure shall be subject
19 to a criminal history check. Refusal to consent to a criminal
20 history check constitutes grounds for the board to deny the
21 applicant's application for licensure.

22 "(c) The board shall issue a license to each person
23 who qualifies to be a massage therapist and to each qualified
24 massage therapy establishment. To be qualified for a license
25 as a massage therapist the applicant shall successfully pass

1 the examination, pay the examination fee, pass the criminal
2 history check pursuant to rules adopted by the board, pay the
3 criminal history check fee, and pay the license fee. A license
4 grants all professional rights, honors, and privileges
5 relating to the practice of massage therapy.

6 "(d) Each licensed therapist shall display his or
7 her license in the manner specified by the board. Each
8 establishment shall post its license in plain sight and the
9 license of each massage therapist who practices in the
10 establishment.

11 "(e) A license is the property of the board and
12 shall be surrendered upon demand of the board.

13 "§34-43-14.

14 "(a) By rule, the board shall ~~initially~~ assess and
15 collect the following fees not to exceed:

16 "~~(1) One hundred sixty dollars (\$160) for the~~
17 ~~examination.~~

18 "~~(2) One hundred dollars (\$100)~~ (1) Two hundred
19 fifty dollars (\$250) for the initial massage therapist license
20 ~~which shall be issued for one year. The initial licensing fee~~
21 ~~shall be assessed in the month when the applicant is notified~~
22 ~~that the license has been approved.~~

23 "~~(3) One hundred dollars (\$100)~~ (2) Three hundred
24 dollars (\$300) for all biennial license renewals postmarked or

1 received at the office of the board by the date in which the
2 license expires.

3 ~~"(4) Twenty-five dollars (\$25) for the initial~~
4 ~~application for licensure or the resubmission of the initial~~
5 ~~application.~~

6 ~~"(5) One hundred dollars (\$100)~~ (3) Three hundred
7 dollars (\$300) for the initial, and any renewal of, an
8 establishment license.

9 ~~"(6) Fifty dollars (\$50) for the biennial renewal of~~
10 ~~the establishment license.~~

11 ~~"(7) Fifty dollars (\$50)~~ (4) Five hundred dollars
12 (\$500) for the initial registration, and any renewal
13 registration, as a massage therapy school in this state.

14 ~~"(8) Ten dollars (\$10) to renew the registration as~~
15 ~~a massage therapy school.~~

16 ~~"(9) Ten dollars (\$10)~~ (5) Two hundred fifty dollars
17 (\$250) to register and renew registration as a massage therapy
18 instructor in this state. This is a one-time fee and does not
19 have to be renewed.

20 ~~"(10) Seventy-five dollars (\$75)~~ (6) One hundred
21 fifty dollars (\$150) to reactivate an inactive expired
22 license.

23 ~~"(11) Twenty-five dollars (\$25)~~ (7) One hundred
24 dollars (\$100) shall be added to all license fees not

1 post-marked or received by the board before the expiration
2 date of the license.

3 ~~"(12) Fifteen dollars (\$15)~~ (8) Twenty-five dollars
4 (\$25) to verify a license.

5 ~~"(13) Ten dollars (\$10)~~ (9) Twenty-five dollars
6 (\$25) for a duplicate license certificate or a name change on
7 a license certificate. The board may issue a duplicate
8 certificate only after receiving a sworn letter from the
9 massage therapist that the original certificate was lost,
10 stolen, or destroyed. The records of the board shall reflect
11 that a duplicate certificate was issued.

12 ~~"(14)~~ (10) A fee, set by the board, for the criminal
13 history check.

14 "(11) A fee, set by the board, for an establishment
15 inspection.

16 "(b) Necessary administrative fees may be charged by
17 the board, including, but not limited to, reasonable costs for
18 copying, labels, and lists. Examination and license fees may
19 be adjusted as the board shall deem appropriate.

20 "(c) There is hereby established a separate special
21 revenue trust fund in the State Treasury to be known as the
22 Alabama Board of Massage Therapy Fund. All receipts collected
23 by the board under the provisions of this chapter are to be
24 deposited in this fund and used only to carry out the
25 provisions of this chapter. Such receipts shall be disbursed

1 only by warrant of the state Comptroller, upon itemized
2 vouchers approved by the chair of the board; provided that no
3 funds shall be withdrawn except as budgeted and allotted
4 according to the provisions of Sections 41-4-80 to 41-4-96,
5 inclusive, 41-19-1, and 41-19-12, as amended, and only in
6 amounts as stipulated in the general appropriations bill or
7 other appropriations bills.

8 "§34-43-15.

9 "(a) Any person may file with the board a written
10 ~~and signed~~ complaint regarding an allegation of impropriety by
11 a licensee, establishment, or person. Complaints shall be made
12 in the manner prescribed by the board. Complaints received by
13 the board shall be referred to a standing investigative
14 committee consisting of a board member, the Executive
15 Director, the board attorney, and the board investigator. If
16 no probable cause is found, the investigative committee may
17 dismiss the charges and prepare a statement, in writing, of
18 the reasons for the decision.

19 "(b) If probable cause is found, the board shall
20 initiate an administrative proceeding. Upon a finding that the
21 licensee has committed any of the following instances of
22 misconduct, the board may suspend, revoke, or refuse to issue
23 or renew a license or impose a civil penalty after notice and
24 opportunity for a hearing pursuant to the Administrative
25 Procedure Act:

1 "(1) The license was obtained by means of fraud,
2 misrepresentation, or concealment of material facts, including
3 making a false statement on an application or any other
4 document required by the board for licensure.

5 "(2) The licensee sold or bartered or offered to
6 sell or barter a license for a massage therapist or a massage
7 therapy establishment.

8 "(3) The licensee has engaged in unprofessional
9 conduct that has endangered or is likely to endanger the
10 health, safety, and welfare of the public, as defined by the
11 rules of the board. As used in this subdivision,
12 unprofessional conduct includes, but is not limited to,
13 allowing any individual to remain in a massage therapy
14 establishment overnight.

15 "(4) The licensee has been convicted of a felony or
16 of any crime arising out of or connected with the practice of
17 massage therapy.

18 "(5) The licensee has violated or aided and abetted
19 in the violation of this chapter.

20 "(6) The licensee is adjudicated as mentally
21 incompetent by a court of law.

22 "(7) The licensee uses controlled substances or
23 habitually and excessively uses alcohol.

24 "(8) The licensee engaged in false, deceptive, or
25 misleading advertising.

1 "(9) The licensee engaged in or attempted to or
2 offered to engage a client in sexual activity, including but
3 not limited to genital contact, within the client-massage
4 therapist relationship.

5 "(10) The licensee has knowingly allowed the massage
6 therapy establishment to be used as an overnight sleeping
7 accommodation.

8 "(11) The licensee had a license revoked, suspended,
9 or denied in any other territory or jurisdiction of the United
10 States for any act described in this section.

11 "(c) (1) A person governed by this chapter who has a
12 reasonable belief that another massage therapist has engaged
13 in or attempted to or offered to engage a client in sexual
14 activity, as provided in subdivision (9) of subsection (b),
15 shall inform the board in writing within 30 calendar days from
16 the date the person discovers this activity. Upon finding that
17 a person has violated this subsection, the board may do any of
18 the following:

19 "a. Impose an administrative fine of not more than
20 ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars
21 (\$25,000).

22 "b. Suspend or revoke the person's license to
23 practice massage therapy.

24 "(2) Upon a finding that a person has violated this
25 subsection three or more times, the board shall impose a

1 mandatory license suspension for a period of no less than
2 three years and a fine of ~~ten thousand dollars (\$10,000)~~
3 twenty-five thousand dollars (\$25,000).

4 "(d) Any person who has been convicted of, or
5 entered a plea of nolo contendere to, a crime or offense
6 involving prostitution or other sexual offenses is ineligible
7 to hold a license as a massage therapist for a period of at
8 least three years after the entry of the conviction or plea.
9 The board retains the right to revoke a license indefinitely
10 if the licensee is proven guilty of a crime or of sexual
11 misconduct. Reinstatement of licensure is contingent upon
12 proof of weekly counseling by a licensed professional
13 counselor.

14 "(e) ~~Any person who~~ An establishment where a person
15 has been convicted of, or entered a plea of nolo contendere
16 to, an offense involving prostitution or any other type of
17 sexual offense may not receive a license for a massage therapy
18 establishment for a period of three years after the date of
19 conviction or entry of the plea. The board shall revoke the
20 establishment license of any establishment which the board
21 determines is a sexually oriented business. The board may
22 revoke an establishment license if a person is convicted of,
23 or enters a plea of nolo contendere to, any crime involving
24 prostitution or any other sexual offense against a client

1 which occurred on the premises of the establishment. The
2 violation is attached to the address of the establishment.

3 "(f) (1) Upon finding a person, governed by this
4 chapter, performing massage therapy without having obtained a
5 license, the board may do any of the following:

6 "a. Impose an administrative fine of not more than
7 ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars
8 (\$25,000).

9 "b. Issue a cease and desist order.

10 "c. Petition the circuit court of the county where
11 the act occurred to enforce the cease and desist order and
12 collect the assessed fine.

13 "(2) Any person aggrieved by any adverse action of
14 the board must appeal the action to the Circuit Court of
15 Montgomery County in accordance with the Alabama
16 Administrative Procedure Act.

17 "(g) The board shall present any incident of
18 misconduct to the local district attorney for review and
19 appropriate action.

20 "(h) The board may adopt rules to implement and
21 administer this section.

22 "§34-43-20.

23 "(a) To be approved by the board, a massage therapy
24 school shall meet the following requirements:

1 "(1) File a completed application prescribed by the
2 board with the board and pay a registration fee as specified
3 in Section 34-43-14.

4 "(2) Provide documentation of a curriculum which
5 includes a minimum number of required hours of instruction in
6 the subjects required pursuant to Section 34-43-9.

7 "(3) Register annually with the board by filing a
8 renewal form accompanied with the renewal fee pursuant to
9 Section 34-43-14, and submit a current curriculum and a list
10 of instructors.

11 "(b) Every instructor teaching course work titled
12 massage therapy at a board approved school located in Alabama
13 shall be licensed in Alabama as a massage therapist and
14 registered as a massage therapy instructor. Instructors who
15 are not teaching massage therapy do not need to be registered.
16 Any adjunct instructors shall be dually licensed in the state
17 where they reside, be nationally certified, or both.

18 "(c) The board shall register as a massage therapy
19 instructor any applicant who meets all of the following
20 requirements:

21 "(1) Is currently licensed as a massage therapist in
22 Alabama.

23 "(2) Has filed a completed application prescribed by
24 the board and paid a one-time application fee pursuant to
25 Section 34-43-14.

1 "(3) Documents ~~two~~ three years of experience in the
2 practice of massage therapy. The documentation may be
3 considered by the board on a case-by-case basis.

4 "(4) Any other requirements adopted by rule of the
5 board.

6 "§34-43-21.

7 "~~(a) Every massage therapist licensed pursuant to~~
8 ~~this chapter shall be required to complete 16 hours of~~
9 ~~continuing education as a condition for renewing his or her~~
10 ~~license. The continuing education courses shall be offered by~~
11 ~~providers approved by the board. The courses shall have been~~
12 ~~completed within the 24 months preceding the date renewal is~~
13 ~~due. Hours in excess of the total number required may not be~~
14 ~~carried over to future renewals. The continuing education~~
15 ~~requirements shall not apply to a massage therapist within the~~
16 ~~biennium when the massage therapist is first licensed, but~~
17 ~~shall apply to licensees every biennium thereafter. The board~~
18 ~~may accept for compliance with the continuing education~~
19 ~~requirement any of the following:~~

20 "~~(1) Courses or providers which contribute directly~~
21 ~~to the massage therapy education of the licensee.~~

22 "~~(2) Courses, seminars, workshops, and classes in~~
23 ~~areas related to the practice of massage therapy such as:~~
24 ~~Massage, bodywork, allied health care fields (including~~
25 ~~psychology and medicine), anatomy and physiology, business,~~

1 ~~insurance, movement therapy, stress management, yoga, CPR, and~~
2 ~~advanced first aid.~~

3 ~~"(3) Courses of study offered by registered massage~~
4 ~~therapy schools in Alabama, or by massage therapy instructors~~
5 ~~registered with the board, or by any national organization in~~
6 ~~the field of massage therapy or related touch therapy field.~~

7 ~~"(b) Up to 25 percent, or four hours of credit, of~~
8 ~~the required number of hours of continuing education may be~~
9 ~~earned in each of the following areas:~~

10 ~~"(1) Teaching a qualifying class, course, seminar,~~
11 ~~or workshop.~~

12 ~~"(2) Publishing an article in the field relating to~~
13 ~~massage therapy.~~

14 ~~"(3) Speaking on the subject of massage therapy.~~

15 ~~"(4) Being a panelist discussing massage therapy.~~

16 ~~"(5) Participating in a personal growth class.~~

17 ~~"(6) Two hours of professional ethics.~~

18 ~~"(c) Each of the areas listed in subsection (b) may~~
19 ~~be used for up to four hours of credit depending on the actual~~
20 ~~contact hours. One continuing education credit is defined as~~
21 ~~no less than 50 uninterrupted minutes of learning, except that~~
22 ~~publishing an article will automatically count for four hours.~~
23 ~~Continuing education credit may not be awarded for programs~~
24 ~~which do not relate to subjects listed in this section, or for~~
25 ~~repeated courses submitted the previous biennium, except for~~

1 ~~courses listed in subsection (b). The board may select, in a~~
2 ~~random manner, license renewal applications for audit of~~
3 ~~continuing education credit. Each licensee shall be~~
4 ~~responsible for maintaining in his or her personal files the~~
5 ~~certificates or records of credit from continuing education~~
6 ~~programs received from approved program providers. Each~~
7 ~~licensee selected for audit shall be required to produce~~
8 ~~documentation of attendance at those continuing education~~
9 ~~activities listed on his or her renewal application.~~

10 ~~"(1) The board shall send to each licensee selected~~
11 ~~for audit, a notice of audit. The licensee shall provide~~
12 ~~satisfactory documentation of attendance at, or participation~~
13 ~~in, the approved continuing education programs listed in the~~
14 ~~renewal application.~~

15 ~~"(2) The licensee shall ascertain that the~~
16 ~~continuing education program is approved by the board.~~

17 ~~"(d) The board shall evaluate applications from all~~
18 ~~providers of continuing education programs, including massage~~
19 ~~therapy schools and instructors, in order to determine if~~
20 ~~approval shall be granted or denied.~~

21 ~~"(1) The provider or licensee shall submit to the~~
22 ~~board an application on a form provided by the board. Only~~
23 ~~applications which are complete will be considered.~~

24 ~~"(2) The provider or licensee shall submit a~~
25 ~~complete application to the board at least 60 days prior to~~

1 ~~the date on which the training event is to be given to gain~~
2 ~~approval before the program is presented.~~

3 ~~"(e) The board is subject to the Alabama Sunset Law~~
4 ~~of 1981, and is classified as an enumerated agency pursuant to~~
5 ~~Section 41-20-3. The board shall automatically terminate on~~
6 ~~October 1, 2007, and every four years thereafter, unless~~
7 ~~continued pursuant to the Alabama Sunset Law.~~

8 (a) The board is subject to the Alabama Sunset Law
9 of 1981, and is classified as an enumerated agency pursuant to
10 Section 41-20-3. The board shall automatically terminate on
11 October 1, 2007, and every four years thereafter, unless
12 continued pursuant to the Alabama Sunset Law.

13 "(b) The board shall adopt a program of continuing
14 education for licensees which shall be a requisite for the
15 renewal of licenses issued pursuant to this chapter."

16 Section 2. Section 34-43-10, Code of Alabama 1975,
17 providing for a massage therapist examination, is repealed.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

