

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

8 SYNOPSIS: Under existing law, the Alabama Board of  
9 Massage Therapy is responsible for licensing and  
10 regulating the practice of massage therapy.

11 This bill would remove the requirement that  
12 no two board members from the same congressional  
13 district serve at the same time and would authorize  
14 the board to grant the executive director the  
15 authority to approve licenses.

16 This bill would require massage therapy  
17 establishments and schools to carry liability  
18 insurance.

19 This bill would prohibit massage therapists  
20 and establishments from advertising services on  
21 certain sexually explicit websites or online  
22 platforms.

23 This bill would revise the requirements for  
24 licensure as a massage therapist and establishment  
25 licenses.

26 This bill would provide further for the  
27 submission of applications for licensure.

1                   This bill would substantially revise fees  
2                   and fines.

3                   This bill would also authorize the board to  
4                   adopt, by rule, a program of continuing education.

5  
6                                   A BILL  
7                                   TO BE ENTITLED  
8                                   AN ACT

9  
10                   Relating to the Alabama Board of Massage Therapy, to  
11                   amend Sections 34-43-3, 34-43-6, 34-43-7, 34-43-8, 34-43-9,  
12                   34-43-11, 34-43-12, 34-43-14, 34-43-15, 34-43-20, and  
13                   34-43-21, Code of Alabama 1975; to provide further for  
14                   definitions; to remove the requirement that no two board  
15                   members from the same congressional district serve at the same  
16                   time; to authorize the board to grant the executive director  
17                   the authority to approve licenses; to require massage therapy  
18                   establishments and schools to carry liability insurance; to  
19                   prohibit the advertising of services on sexually explicit  
20                   websites or online platforms; to revise the requirements for  
21                   licensure as a massage therapist and establishment licenses;  
22                   to provide further for the submission of applications for  
23                   licensure; to substantially revise fees and fines; to  
24                   authorize the board to adopt a program of continuing  
25                   education; and to repeal Section 34-43-10, Code of Alabama  
26                   1975, providing for a massage therapist examination.

27                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 34-43-3, 34-43-6, 34-43-7,  
2                   34-43-8, 34-43-9, 34-43-11, 34-43-12, 34-43-14, 34-43-15,  
3                   34-43-20, and 34-43-21 of the Code of Alabama 1975, are  
4                   amended to read as follows:

5                   "§34-43-3.

6                   "For purposes of this chapter, the following terms  
7                   shall have the following meanings:

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

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

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

16                  "a. If located in Alabama is approved by the board  
17                  as meeting the minimum established standards of training and  
18                  curriculum as determined by the board.

19                  "b. If located outside of Alabama is recognized by  
20                  the board and by a regionally recognized professional  
21                  accrediting body.

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

24                  "(4) ESTABLISHMENT. A site, premises, or business  
25                  where massage therapy is practiced by a licensed massage  
26                  therapist.

1           "(5) EXAMINATION. A National Certification For  
2           Therapeutic Massage and Bodywork Examination or Federation of  
3           State Massage Therapy Boards Massage and Bodywork Licensing  
4           Examination administered by an independent agency or another  
5           nationally or internationally accredited exam administered by  
6           an independent agency per approval of the board. The  
7           examination will be accredited by the National Committee for  
8           Certifying Agencies. The board retains the right to administer  
9           a written, oral, or practical examination.

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

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

16           "(8) MASSAGE THERAPY INSTRUCTOR. A licensed massage  
17           therapist approved by the board to teach the practice of  
18           massage therapy.

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

21           "(10) SEXUALLY ORIENTED BUSINESS. A sex parlor,  
22           massage parlor, nude studio, modeling studio, love parlor,  
23           adult bookstore, adult movie theater, adult video arcade,  
24           adult motel, or other commercial enterprise which has ~~as its~~  
25           ~~primary business~~ the offering for sale, rent, or exhibit, or  
26           the exhibit of, items or services intended to provide sexual  
27           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,  
26 injection therapy, manipulation of the joints, or any  
27 diagnosis or treatment of an illness that normally involves

1 the practice of medicine, chiropractic, physical therapy,  
2 podiatry, nursing, midwifery, occupational therapy,  
3 veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or  
4 naturopathics.

5 "§34-43-6.

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

20 "(b) The board shall consist of seven members  
21 appointed by the Governor, subject to confirmation by the  
22 Senate. No member of the board shall serve more than two full  
23 consecutive terms. The members initially appointed to the  
24 board shall be appointed not later than July 16, 1996. Five of  
25 the members initially appointed to the board shall have been  
26 actively engaged in the practice of massage therapy for not  
27 less than three consecutive years prior to the date of their

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

19 "(c) Of the initial seven appointees to the board,  
20 three members shall be appointed for terms ending September  
21 30, 1997, and four members shall be appointed for terms ending  
22 September 30, 1999. Thereafter, successors shall be appointed  
23 for terms of four years, each term expiring on September 30.

24 "(d) Vacancies on the board occurring prior to the  
25 expiration of a term shall be filled by the Governor within 30  
26 days of the vacancy to serve for the remainder of the



1 unexpired term. Each member of the board shall serve until his  
2 or her successor has been duly appointed and qualified.

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

6 "(f) The board shall hold its first meeting within  
7 30 days after the initial members are appointed. The board  
8 shall hold meetings during the year as it determines  
9 necessary, two of which shall be the biannual meetings for the  
10 purpose of reviewing license applications. Additional meetings  
11 may be held at the discretion of the chair or upon written  
12 request of any three members of the board. A quorum of the  
13 board shall be a majority of the current appointed board  
14 members.

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

19 "(h) The board shall ~~promulgate~~ adopt the rules  
20 necessary to implement this chapter pursuant to the  
21 Administrative Procedure Act.

22 "(i) The board may employ, and at its pleasure  
23 discharge, an executive secretary and other officers and  
24 employees which may be necessary, including an attorney, to  
25 implement this chapter. The board shall also outline the  
26 duties and fix the compensation and expense allowances of the  
27 employees.

1           "(j) An affirmative vote of a majority of the  
2 members of the board shall be required to grant, suspend, or  
3 revoke a license to practice massage therapy or a license to  
4 operate a massage therapy establishment. The board may grant  
5 authority to the executive director to approve licenses.

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

10           "(l) Each board member shall be accountable to the  
11 Governor for the proper performance of his or her duties as a  
12 member of the board. The board shall report to the Governor  
13 annually and at other times as requested by the Governor. The  
14 Governor shall investigate any complaints or unfavorable  
15 reports concerning the actions of the board and take  
16 appropriate action thereon, including removal of any board  
17 member for misfeasance, malfeasance, neglect of duty,  
18 commission of a felony, incompetence, or permanent inability  
19 to perform official duties. A board member may be removed at  
20 the request of the board after failing to attend two  
21 consecutive properly noticed meetings.

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

25           "(n) Appointees to the board shall take the  
26 constitutional oath of office and file it in the office of the  
27 Governor before undertaking any duties as a board member. Upon

1 receiving the oath, the Governor shall issue a certificate of  
2 appointment to each appointee.

3 "§34-43-7.

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

6 "(1) Examine and qualify for examination applicants  
7 for licensure and issue a license to each successful  
8 applicant.

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

11 "(3) Prescribe application forms for examination and  
12 licensure and assess and collect fees pursuant to this  
13 chapter.

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

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

22 "(6) Adopt and revise rules and regulations pursuant  
23 to the Administrative Procedure Act, including the adoption of  
24 rules concerning unprofessional conduct.

25 "(7) Provide a copy of this chapter to all persons  
26 licensed under this chapter and to all applicants for  
27 licensure.

1           "(8) Adopt rules that require massage therapists, message therapy establishments, and message therapy schools to  
2 carry professional and general liability insurance with an "A"  
3 rated or better insurance carrier in the amount of at least  
4 one million dollars (\$1,000,000). The massage therapist shall  
5 produce evidence of coverage upon request of the board.  
6

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

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

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

13           "(2) Establish criteria for certifying massage  
14 therapy instructors.

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

19           "(4) Adopt a code of ethics.

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

22           "(6) Establish a list of approved massage therapy  
23 schools.

24           "§34-43-8.

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

1           "(b) A licensed massage therapist may not perform  
2 massage therapy, whether or not for compensation, for a  
3 sexually oriented business.

4           "(c) A licensed massage therapist shall not  
5 advertise or offer to perform services outside the scope of  
6 his or her expertise, experience, and education for clients  
7 who are ill, or those with physical dysfunction(s), unless  
8 such services are performed in conjunction with a licensed  
9 physician, physical therapist, or chiropractor.

10           "(d) A licensed massage therapist or licensed  
11 massage therapy establishment may not advertise or offer to  
12 perform services on any sexually explicit website or online  
13 platform that promotes prostitution, sexually explicit  
14 services, or human trafficking.

15           "§34-43-9.

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

21           "~~(1) Satisfactorily completed a minimum of 500 hours~~  
22 ~~of supervised courses of instruction which shall include, but~~  
23 ~~not be limited to, anatomy, pathology, physiology, massage~~  
24 ~~techniques, clinical practices, ethics, health, hygiene, and~~  
25 ~~related subjects. The board shall determine how the 500 hours~~  
26 ~~of instruction shall be broken down. The course of instruction~~  
27 ~~may be provided by a massage therapy school approved by the~~

1 ~~board. The minimum 500 hours shall consist of the following:~~  
2 ~~325 hours dedicated to the study of basic massage therapy~~  
3 ~~techniques and clinical practice related modalities; 125 hours~~  
4 ~~dedicated to the study of anatomy, pathology, and physiology;~~  
5 ~~and an additional 50 hours of discretionary related course~~  
6 ~~work, including, but not limited to, hydrotherapy, business~~  
7 ~~practices and professional ethics, health and hygiene, and~~  
8 ~~cardiopulmonary resuscitation and first aid. Beginning January~~  
9 ~~1, 1998, applicants for licensure shall be required to~~  
10 ~~complete a minimum of 650 hours of instruction. By rule of the~~  
11 ~~board, the minimum 650 hours shall consist of the following:~~  
12 ~~100 hours of anatomy and physiology to include 35 hours of~~  
13 ~~myology, 15 hours of osteology, 10 hours of circulatory~~  
14 ~~system, and 10 hours of nervous system, with the remaining 30~~  
15 ~~hours to address other body systems at the discretion of the~~  
16 ~~school; 250 hours of basic massage therapy, the~~  
17 ~~contradistinctions of massage therapy, and related touch~~  
18 ~~therapy modalities, to include a minimum of 50 hours of~~  
19 ~~supervised massage; 50 hours to include business,~~  
20 ~~hydrotherapy, first aid, cardiopulmonary resuscitation, and~~  
21 ~~professional ethics; and 250 hours of electives to be~~  
22 ~~determined by the school. The board may adopt a rule to~~  
23 ~~further increase the minimum number of hours of instruction~~  
24 ~~required for licensure, not to exceed the number of hours~~  
25 ~~recommended by the National Certification Board for~~  
26 ~~Therapeutic Massage and Bodywork. Before performing~~  
27 ~~therapeutic massage on an animal, a massage therapist shall~~

1 graduate from a nationally approved program and complete at  
2 least 100 hours of postgraduate training and education in  
3 animal anatomy, pathology, and physiology for the type of  
4 animal upon which the massage therapist wishes to perform  
5 therapeutic massage.

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

12 "(3) Completed a criminal history check.

13 "(4) Paid all applicable fees.

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

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

1           "(d) The board may notify each applicant of the  
2 acceptance or rejection of his or her application. If the  
3 application is rejected, the board shall list the reasons for  
4 rejection.

5           "§34-43-11.

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

10           "(b) Establishments shall employ only licensed  
11 massage therapists to perform massage therapy.

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

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

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

24           "~~(e) Subsequent to an official complaint, the board  
25 may request a criminal background check of the establishment's  
26 licensees through the district attorney of the circuit in  
27 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  
26 the examination, pay the examination fee, pass the criminal  
27 history check pursuant to rules adopted by the board, pay the

1 criminal history check fee, and pay the license fee. A license  
2 grants all professional rights, honors, and privileges  
3 relating to the practice of massage therapy.

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

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

11 "§34-43-14.

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

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

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

21 "~~(3) One hundred dollars (\$100)~~ (2) Three hundred  
22 dollars (\$300) for all biennial license renewals postmarked or  
23 received at the office of the board by the date in which the  
24 license expires.

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

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

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

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

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

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

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

18                   "~~(11) Twenty-five dollars (\$25)~~ (7) One hundred  
19 dollars (\$100) shall be added to all license fees not  
20 post-marked or received by the board before the expiration  
21 date of the license.

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

24                   "~~(13) Ten dollars (\$10)~~ (9) Twenty-five dollars  
25 (\$25) for a duplicate license certificate or a name change on  
26 a license certificate. The board may issue a duplicate  
27 certificate only after receiving a sworn letter from the

1 message therapist that the original certificate was lost,  
2 stolen, or destroyed. The records of the board shall reflect  
3 that a duplicate certificate was issued.

4 "~~(14)~~(10) A fee, set by the board, for the criminal  
5 history check.

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

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

12 "(c) There is hereby established a separate special  
13 revenue trust fund in the State Treasury to be known as the  
14 Alabama Board of Massage Therapy Fund. All receipts collected  
15 by the board under the provisions of this chapter are to be  
16 deposited in this fund and used only to carry out the  
17 provisions of this chapter. Such receipts shall be disbursed  
18 only by warrant of the state Comptroller, upon itemized  
19 vouchers approved by the chair of the board; provided that no  
20 funds shall be withdrawn except as budgeted and allotted  
21 according to the provisions of Sections 41-4-80 to 41-4-96,  
22 inclusive, 41-19-1, and 41-19-12, as amended, and only in  
23 amounts as stipulated in the general appropriations bill or  
24 other appropriations bills.

25 "§34-43-15.

26 "(a) Any person may file with the board a written  
27 ~~and signed~~ complaint regarding an allegation of impropriety by

1 a licensee, establishment, or person. Complaints shall be made  
2 in the manner prescribed by the board. Complaints received by  
3 the board shall be referred to a standing investigative  
4 committee consisting of a board member, the Executive  
5 Director, the board attorney, and the board investigator. If  
6 no probable cause is found, the investigative committee may  
7 dismiss the charges and prepare a statement, in writing, of  
8 the reasons for the decision.

9 "(b) If probable cause is found, the board shall  
10 initiate an administrative proceeding. Upon a finding that the  
11 licensee has committed any of the following instances of  
12 misconduct, the board may suspend, revoke, or refuse to issue  
13 or renew a license or impose a civil penalty after notice and  
14 opportunity for a hearing pursuant to the Administrative  
15 Procedure Act:

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

20 "(2) The licensee sold or bartered or offered to  
21 sell or barter a license for a massage therapist or a massage  
22 therapy establishment.

23 "(3) The licensee has engaged in unprofessional  
24 conduct that has endangered or is likely to endanger the  
25 health, safety, and welfare of the public, as defined by the  
26 rules of the board. As used in this subdivision,  
27 unprofessional conduct includes, but is not limited to,

1 allowing any individual to remain in a massage therapy  
2 establishment overnight.

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

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

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

10 "(7) The licensee uses controlled substances or  
11 habitually and excessively uses alcohol.

12 "(8) The licensee engaged in false, deceptive, or  
13 misleading advertising.

14 "(9) The licensee engaged in or attempted to or  
15 offered to engage a client in sexual activity, including but  
16 not limited to genital contact, within the client-massage  
17 therapist relationship.

18 "(10) The licensee has knowingly allowed the massage  
19 therapy establishment to be used as an overnight sleeping  
20 accommodation.

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

24 "(c) (1) A person governed by this chapter who has a  
25 reasonable belief that another massage therapist has engaged  
26 in or attempted to or offered to engage a client in sexual  
27 activity, as provided in subdivision (9) of subsection (b),

1 shall inform the board in writing within 30 calendar days from  
2 the date the person discovers this activity. Upon finding that  
3 a person has violated this subsection, the board may do any of  
4 the following:

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

8 "b. Suspend or revoke the person's license to  
9 practice massage therapy.

10 "(2) Upon a finding that a person has violated this  
11 subsection three or more times, the board shall impose a  
12 mandatory license suspension for a period of no less than  
13 three years and a fine of ~~ten thousand dollars (\$10,000)~~  
14 twenty-five thousand dollars (\$25,000).

15 "(d) Any person who has been convicted of, or  
16 entered a plea of nolo contendere to, a crime or offense  
17 involving prostitution or other sexual offenses is ineligible  
18 to hold a license as a massage therapist for a period of at  
19 least three years after the entry of the conviction or plea.  
20 The board retains the right to revoke a license indefinitely  
21 if the licensee is proven guilty of a crime or of sexual  
22 misconduct. Reinstatement of licensure is contingent upon  
23 proof of weekly counseling by a licensed professional  
24 counselor.

25 "(e) ~~Any person who~~ An establishment where a person  
26 has been convicted of, or entered a plea of nolo contendere  
27 to, an offense involving prostitution or any other type of

1 sexual offense may not receive a license for a massage therapy  
2 establishment for a period of three years after the date of  
3 conviction or entry of the plea. The board shall revoke the  
4 establishment license of any establishment which the board  
5 determines is a sexually oriented business. The board may  
6 revoke an establishment license if a person is convicted of,  
7 or enters a plea of nolo contendere to, any crime involving  
8 prostitution or any other sexual offense against a client  
9 which occurred on the premises of the establishment. The  
10 violation is attached to the address of the establishment.

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

14 "a. Impose an administrative fine of not more than  
15 ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars  
16 (\$25,000).

17 "b. Issue a cease and desist order.

18 "c. Petition the circuit court of the county where  
19 the act occurred to enforce the cease and desist order and  
20 collect the assessed fine.

21 "(2) Any person aggrieved by any adverse action of  
22 the board must appeal the action to the Circuit Court of  
23 Montgomery County in accordance with the Alabama  
24 Administrative Procedure Act.

25 "(g) The board shall present any incident of  
26 misconduct to the local district attorney for review and  
27 appropriate action.



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

3           "§34-43-20.

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

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

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

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

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

23           "(c) The board shall register as a massage therapy  
24 instructor any applicant who meets all of the following  
25 requirements:

26           "(1) Is currently licensed as a massage therapist in  
27 Alabama.

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

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

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

9           "§34-43-21.

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

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

25           "~~(2) Courses, seminars, workshops, and classes in~~  
26 ~~areas related to the practice of massage therapy such as:~~  
27 ~~Massage, bodywork, allied health care fields (including~~

1 ~~psychology and medicine), anatomy and physiology, business,~~  
2 ~~insurance, movement therapy, stress management, yoga, CPR, and~~  
3 ~~advanced first aid.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~"(2) The provider or licensee shall submit a~~  
24 ~~complete application to the board at least 60 days prior to~~  
25 ~~the date on which the training event is to be given to gain~~  
26 ~~approval before the program is presented.~~

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

6                   "The board shall adopt a program of continuing  
7 education for licensees which shall be a requisite for the  
8 renewal of licenses issued pursuant to this chapter."

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

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