

SECOND REGULAR SESSION

# SENATE BILL NO. 606

89TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR WESTFALL.

Pre-filed December 16, 1997, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2551.011

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## AN ACT

To amend chapter 324, RSMo, by adding thereto fifteen new sections relating to professional registration.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 324.240, 324.243, 324.245, 324.247, 324.250, 324.252, 324.255, 324.257, 324.260, 324.262, 324.265, 324.267, 324.270, 324.272 and 324.275, to read as follows:

**324.240. As used in sections 324.240 to 324.275, the following terms shall mean:**

- (1) "Board", the state board of registration for the healing arts in the state of Missouri;**
- (2) "Certified mentor", a practitioner who is qualified for license in this state under this law and who has practiced professionally for five years, with an average of four hundred fifty hours per year of teaching and massage hours and who has been approved by the board of higher education as a massage therapy instructor;**
- (3) "Massage business", any place of business in which only massage therapy is practiced by two or more massage therapists;**
- (4) "Massage therapist", a health care practitioner who provides or offers to provide massage therapy, as provided in sections 324.240 to 324.275, to any person at no cost or for a fee, monetary or otherwise, implying that the massage therapist is trained, experienced and licensed in massage therapy, and who holds a current, valid license to practice massage therapy;**
- (5) "Massage therapy", a health care profession which involves the treatment of the body's tonus system through the scientific or skillful manipulation of the soft tissues of the body with the hands, forearms, elbows, or feet, or with the aid of**

**mechanical apparatus, for relaxation, therapeutic, remedial or health maintenance purposes to enhance the mental and physical well-being of the client, but does not include the prescription of medication, spinal or joint manipulation, the diagnosis of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law, or to those occupations defined in chapter 329, RSMo;**

**(6) "Massage therapy instructor", an individual who possesses teaching credentials satisfactory to the department of higher education for the purpose of teaching massage therapy;**

**(7) "Person", an individual, corporation, association or other legal entity.**

**324.243. 1. There is hereby established in the division of professional registration in the department of economic development the "Advisory Commission for Massage Therapists" which shall guide, advise and make recommendations to the board and fulfill other responsibilities designated by sections 324.240 to 324.275. The commission shall approve the examination required by section 324.265 and shall assist the board in carrying out the provisions of sections 324.240 to 324.275.**

**2. The commission shall consist of seven voting members, including one public member, and one nonvoting member, appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of this state and, except for the members first appointed, shall be licensed as a massage therapist by this state. The nonvoting member shall be a member of the massage education community in the state and shall serve a four-year term. Beginning with the appointments made after August 28, 1997, three voting members shall be appointed for four years, two voting members shall be appointed for three years and two voting members shall be appointed for two years. Thereafter, all voting members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the commission for a total of eight years. The membership of the commission shall reflect the differences in work experience and the professional affiliations of therapists with consideration being given to race, gender and ethnic origins.**

**3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.**

**4. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson, vice chairperson and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its voting members.**

**5. The governor may remove a commission member for misconduct, incompetence or neglect of official duties after giving the board member written notice of the charges and allowing the board member an opportunity to be heard.**

**6. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; but may not have been a member of any profession licensed or regulated pursuant to sections 324.240 to 324.275 or an immediate family member of such a person; and may not have had a material, financial interest in either the providing of massage therapy as defined in sections 324.240 to 324.275 or in an activity or organization directly related to any profession licensed or regulated pursuant to sections 324.240 to 324.275.**

**7. The professional members shall not be officers in a professional massage organization, nor may they be the owners or managers of any massage educational entity.**

**8. No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. All staff for the commission shall be provided by the board.**

**324.245. 1. The commission is authorized to regulate the following areas:**

**(1) The form and content of license applications and the procedures for filing an application for an initial or renewal license in this state;**

**(2) The content, conduct and administration of the licensing examination required by section 324.265;**

**(3) Educational requirements for licensure;**

**(4) The standards and methods to be used in assessing competency as a massage therapist; and**

**(5) Establishment of procedures for granting reciprocity with other states, including states which do not have massage therapy licensing laws or states whose licensing laws are not substantially the same as those of this state.**

**2. All funds received by the board or commission under the provisions of sections 324.240 to 324.275 shall be deposited in the state treasury pursuant to section 33.080, RSMo.**

**324.247. 1. A person desiring to receive a license to operate a massage business in the state of Missouri shall file a written application with the board on a form prescribed by the board.**

**2. The application shall be accompanied by a one hundred dollar license fee.**

**324.250. 1. The board shall review the applications and shall issue a license to applicants who have complied with the requirements of sections 324.240 to 324.275 and have received approval of the board after a survey inspection.**

**2. A license shall be renewed every two years upon approval of the board when the following conditions have been met:**

- (1) The application is accompanied by a fifty dollar renewal fee;**
- (2) The massage business is in compliance with the requirements established under the provisions of sections 324.240 to 324.275 as evidenced by a survey inspection by the board within ninety days prior to renewal;**
- (3) The application is accompanied by a statement of any changes in the information previously filed with the board under section 324.247.**

**3. Each license shall be issued only for the massage business listed in the application. Licenses shall be posted in a conspicuous place on the premises of the licensed massage business.**

**324.252. A license shall not be transferable or assignable. When a massage business is sold or ownership or management is transferred, or the corporate legal organization status is substantially changed, the license of the massage business shall be voided and a new license obtained. Application for a new license shall be made to the board in writing, at least ninety days prior to the effective date of the sale, transfer, or change in corporate status. The application for a new license shall be on the same form, containing the same information required for an original license, and shall be accompanied by a license fee of one hundred dollars. The board may issue a temporary operating permit to continue the operation of the massage business for a period of up to ninety days pending the survey inspection and the final disposition of the application.**

**324.255. In addition to the survey inspection required for licensing or license renewal, the board may make other survey inspections during normal business hours. Each massage business shall allow the board or its authorized representatives to enter upon its premises during normal business hours for the purpose of conducting any survey inspection.**

**324.257. After completion of each board survey inspection, a written report of the findings with respect to the massage business' compliance or noncompliance with the provisions of sections 324.240 to 324.275 and the standards established hereunder as well as a list of deficiencies found shall be prepared. A copy of the report and the list of deficiencies found shall be sent to the massage business within fifteen business days following the survey inspection. The list of deficiencies shall specifically state the statute or rule which the massage business is alleged to have violated. If the massage business acknowledges the deficiencies found by the survey inspection, the massage business shall inform the board of the time necessary for compliance and shall file a plan of correction with the board. If the massage business does not acknowledge the deficiencies, it may request a second survey by the board. If, after such survey, the**

message business does not agree with the findings of the board, it may seek a review of the findings of the board by the administrative hearing commission.

**324.260. 1.** Any person wishing to make a complaint against a message business or message therapist licensed under the provisions of sections 324.240 to 324.275 may file the complaint in writing with the board setting forth facts supporting the complaint. If the board determines the charges are sufficient to warrant a hearing to determine whether the license of the message business or message therapist should be suspended or revoked, the board shall fix a time and place for a hearing and require the message business or message therapist to appear and defend against the complaint. A copy of the complaint shall be given to the message business or message therapist at the time such business or therapist is notified of the hearing. The notice of the hearing shall be given at least twenty days prior to the date of the hearing. The hearing shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 621, RSMo.

**2.** The board may file an action in the circuit court of the county in which any message business alleged to be violating the provisions of sections 324.240 to 324.275 is located for an injunction to restrain the message business from continuing such violation.

**324.262. 1.** The board shall refuse to issue, shall suspend or shall revoke the license of any message business or message therapist for failure to comply with any provision of sections 324.240 to 324.275, or with any rule or regulation of the board adopted under the provisions of sections 324.240 to 324.275, or for obtaining the license by means of fraud, misrepresentation, or concealment of material facts, or for any criminal act committed by an owner or employee of a message business pursuant to chapter 567, RSMo.

**2.** Any message business which has been denied a license or which has had its license revoked or suspended by the board may seek a review of the board's action by the administrative hearing commission.

**324.265. 1.** A person desiring a license to practice message therapy shall be at least eighteen years of age, shall pay the application fee of fifty dollars, and shall submit satisfactory evidence to the commission of meeting at least one of the following requirements:

**(1)** Passing an examination on therapeutic massage and bodywork which is accredited by the National Organization for Competency Assurance (NOCA); or

**(2)** Completing message therapy studies consisting of at least five hundred hours of supervised instruction and subsequently passing an examination approved by the commission. The examination may consist of school examinations. The course of instruction shall be provided by a proprietary message school approved by its state's

department of higher education. The five hundred hours shall consist of three hundred hours dedicated to massage theory and practice techniques, one hundred hours dedicated to the study of anatomy and physiology, fifty hours dedicated to business practice, professional ethics, hygiene and massage law in the state of Missouri, and fifty hours dedicated to ancillary therapies, including cardiopulmonary resuscitation (CPR) and first aid; or

(3) Has completed five hundred hours in an apprenticeship with a certified mentor and has successfully passed an examination approved by the commission; or

(4) Has been licensed or registered as a massage therapist in another state, territory or commonwealth or the District of Columbia, which maintains standards of practice and licensure which substantially conform to the requirements in force in this state; or

(5) Has been in the practice of massage therapy for at least three years prior to August 28, 1997, has completed at least one hundred hours of formal training in massage approved by the commission and applies for such license within one year after the effective date of this act.

2. A person who has practiced less than three years or has less than one hundred hours of training may request a waiver of the requirements of subsection 1 of this section and apply for a temporary two-year license which shall not be renewable. By the end of such two-year period, such person must complete at least one hundred additional hours of formal training, including at least twenty-five hours in anatomy and physiology, in a school approved by the board of higher education. Such person will have until December 31, 1999, to apply for a temporary license under this subsection.

3. Each license issued pursuant to the provisions of this section shall be valid for two years and shall expire on its renewal date. The commission shall renew any license upon:

(1) Application for renewal;

(2) Proof that the therapist has completed twelve hours of continuing education;

and

(3) Payment of a twenty-five dollar renewal fee.

4. An applicant who possesses the qualifications specified in subsection 2 of this section to take the examination approved by the commission may be granted a provisional license to engage in the practice of massage therapy until the date of the next examination, and thereafter until the results of the examination are known.

5. As determined by the commission, students making substantial progress toward completion of their training in an approved curriculum shall be granted a student license for the purpose of practicing massage therapy on the public while under the supervision of a massage therapy instructor.

**6. A provisional license may, at the discretion of the commission, be renewed once, and a student license may be renewed until the student completes such student's training.**

**7. The following practitioners are exempt from the provisions of this section upon filing written proof with the board that they meet one or more of the following:**

**(1) Persons who act under a Missouri state license, registration, or certification and perform soft tissue manipulation within their scope of practice;**

**(2) Persons who restrict their manipulation of the soft tissues of the human body to the hands, feet or ears;**

**(3) Persons who use touch and words to deepen awareness of existing patterns of movement in the human body as well as to suggest new possibilities of movement;**

**(4) Persons who manipulate the human body above the neck, below the elbow, and below the knee and do not disrobe the client in performing such manipulation;**

**(5) Persons who have been engaged in the practice of massage therapy for at least ten years prior to the effective date of this act.**

**324.267. 1. Any applicant for a license to operate a massage business or a license to practice massage therapy shall authorize the commission to conduct a criminal background check.**

**2. The cost of such background check shall be paid by the applicant.**

**324.270. A person who does not hold a license to practice massage therapy or a license to operate a massage business or is not exempted from obtaining a license pursuant to subsection 7 of section 324.265 shall not use the words "massage", "body work", or any of their synonyms on any sign or in any other form of advertising, unless specifically exempted by the board. Any advertisement by a massage therapist or a massage business shall contain the license or registration number of such therapist or business.**

**324.272. 1. Except as provided in subsection 2 of this section, sections 324.240 to 324.275 shall preempt any rule, regulation or order adopted by a political subdivision of the state relating to the licensing or regulation of massage therapists or massage businesses.**

**2. Sections 324.240 to 324.275 shall not affect:**

**(1) Local regulations relating to zoning requirements, local health department regulations, or occupational license taxes pertaining to massage therapists or massage businesses; or**

**(2) Local regulations that do not relate to the practice of massage therapy as performed by a Missouri state licensed massage therapist, including regulations of those professions who perform duties with a licensed massage therapist.**

**324.275. Any person who violates any of the provisions of sections 324.240 to**

**324.275 is guilty of a class A misdemeanor.**



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