

By: Representatives Fredericks, Martinson

To: Public Health and Human
Services

HOUSE BILL NO. 1590

1 AN ACT TO REENACT SECTIONS 73-67-1 THROUGH 73-67-37,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI PROFESSIONAL
3 MASSAGE THERAPY ACT; TO AMEND REENACTED SECTIONS 73-67-3 THROUGH
4 73-67-37, MISSISSIPPI CODE OF 1972, TO CHANGE PROVISIONS FOR
5 MASSAGE THERAPIST "REGISTRATION" TO MASSAGE THERAPIST "LICENSURE,"
6 REVISE DEFINITIONS, DELETE PROVISIONAL REGISTRATION, REVISE
7 REQUIREMENTS FOR PROVISIONAL PERMITS, AUTHORIZE THE STATE BOARD OF
8 MASSAGE THERAPY TO ESTABLISH STANDARDS FOR THE OPERATION OF
9 SCHOOLS OF MASSAGE THERAPY, DELETE PROVISIONS THAT ALLOW LOCAL
10 REGULATION OF MASSAGE THERAPISTS AND ESTABLISHMENTS AND TO
11 PROHIBIT DISCRIMINATION AGAINST SUCH FOR BUSINESS LICENSES, TO
12 REQUIRE ESTABLISHMENTS TO VERIFY PROPER LICENSURE OF MASSAGE
13 THERAPISTS EMPLOYED, EMPOWER THE BOARD TO ASSESS PENALTIES,
14 AUTHORIZE THE BOARD TO ASSESS THE COSTS OF DISCIPLINARY
15 PROCEEDINGS, AND PRESCRIBE CERTAIN EDUCATIONAL QUALIFICATIONS FOR
16 LICENSURE; TO AMEND SECTION 73-67-39, MISSISSIPPI CODE OF 1972, TO
17 EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI PROFESSIONAL
18 MASSAGE THERAPY ACT; TO AMEND SECTION 75-60-5, MISSISSIPPI CODE OF
19 1972, TO EXEMPT SCHOOLS OR COURSES OF INSTRUCTION UNDER THE
20 JURISDICTION OF THE STATE BOARD OF MASSAGE THERAPY FROM THE
21 PROPRIETARY SCHOOL AND COLLEGE REGISTRATION LAW; AND FOR RELATED
22 PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Section 73-67-1, Mississippi Code of 1972, is
25 reenacted as follows:

26 73-67-1. This chapter shall be known and may be cited as the
27 "Mississippi Professional Massage Therapy Act."

28 **SECTION 2.** Section 73-67-3, Mississippi Code of 1972, is
29 reenacted and amended as follows:

30 73-67-3. The Legislature finds that in the profession and
31 practice of massage therapy there is a necessity to preserve and
32 protect individual life and health, promote the public interest
33 and welfare by providing for the licensure of massage therapists
34 and assuring public safety.

35 **SECTION 3.** Section 73-67-5, Mississippi Code of 1972, is
36 reenacted and amended as follows:

37 73-67-5. (1) The provisions of this chapter shall not apply
38 to the following:

39 (a) Persons state licensed, state registered, state
40 certified, or otherwise state credentialed by the laws of this
41 state to include massage as part of their practice, or other
42 allied modalities that are certified by a nationally accredited
43 organization recognized by the board;

44 (b) Students enrolled in a massage therapy school and,
45 at the same time, working in a student clinic, and out-of-state
46 massage therapy instructors when teaching in these programs;

47 (2) Any exemption granted under this section is effective
48 only insofar as and to the extent that the bona fide practice of
49 the profession or business of the person exempted overlaps into
50 the field comprehended by this law, and exemptions under this
51 section are only for those activities that are currently
52 authorized and performed in the course of the bona fide practice
53 of the business or profession of the person exempted.

54 **SECTION 4.** Section 73-67-7, Mississippi Code of 1972, is
55 reenacted and amended as follows:

56 73-67-7. For purposes of this chapter, the following terms
57 shall have the meanings stated in this section, unless otherwise
58 stated:

59 * * *

60 (a) "Approved massage therapy school" means a facility
61 that is licensed by this board and meets the curriculum and
62 instruction requirements as stated in this chapter.

63 (b) "Board" means the state board for licensing massage
64 therapists as created in this chapter.

65 (c) "Board-accepted hours" means hours of education
66 accepted by the board to meet requirements of exemption and/or
67 continuing education for pre-act practitioners and is different
68 from "board-approved programs" and/or "board-approved school
69 hours."

70 (d) "Classroom hour" means no less than fifty (50)
71 minutes of any one (1) clock hour during which the student
72 participates in a learning activity under the supervision of a
73 member of the faculty of the school.

74 (e) "Examination" means the State Board of Massage
75 Therapy approved examination for licensure.

76 (f) "License" means a State Board of Massage Therapy
77 approved form of credential indicating that the license holder has
78 met the requirements of this chapter for the practice of massage
79 therapy.

80 (g) "Massage" means touch, stroking, kneading,
81 stretching, friction, percussion and vibration, and includes
82 holding, positioning, causing movement of the soft tissues and
83 applying manual touch and pressure to the body (excluding an
84 osseous tissue manipulation or adjustment). "Therapy" means
85 action aimed at achieving or increasing health and wellness.
86 "Massage therapy" means the profession in which the practitioner
87 applies massage techniques with the intent of positively affecting
88 the health and well-being of the client, and may adjunctively (i)
89 apply allied modalities, heat, cold, water and topical
90 preparations not classified as prescription drugs, (ii) use hand
91 held tools or devices designed as t-bars or knobblies, and (iii)
92 instruct self care and stress management. "Manual" means by use
93 of hand or body.

94 (h) "Massage establishment" means a place of business
95 where massage is being conducted.

96 (i) "Massage therapist" means a person who practices
97 massage therapy.

98 (j) "MPMTA" means the "Mississippi Professional Massage
99 Therapy Act."

100 (k) "Preact practitioner" means an individual who has
101 practiced professional massage therapy before January 1, 2001.

102 (l) "Professional" means requiring minimum standards of
103 conduct, ethics and education.

104 * * *

105 (m) "Provisional permit" means a temporary permit
106 approved by the board when all requirements, other than
107 board-approved national examinations or the Mississippi law
108 examination, have been met, not to exceed ninety (90) days.

109 **SECTION 5.** Section 73-67-9, Mississippi Code of 1972, is
110 reenacted and amended as follows:

111 73-67-9. (1) There is created the State Board of Massage
112 Therapy.

113 (2) The board shall consist of five (5) members appointed by
114 the Governor, with the advice and consent of the Senate. At least
115 three (3) members shall be appointed from a list submitted by
116 state representatives of one or more nationally recognized
117 professional massage therapy association(s), all of whom must be
118 residents of Mississippi and must have engaged in the practice of
119 massage therapy within the state for at least three (3) years, one
120 (1) member shall be a licensed health professional in a health
121 field other than massage therapy and one (1) member shall be a
122 consumer at large who is not associated with or financially
123 interested in the practice or business of massage therapy. The
124 initial members of the board shall be appointed for staggered
125 terms, as follows: one (1) member shall be appointed for a term
126 that ends on June 30, 2002; one (1) member shall be appointed for
127 a term that ends on June 30, 2003; one (1) member shall be
128 appointed for a term that ends on June 30, 2004; and two (2)
129 members shall be appointed for terms that end on June 30, 2005.
130 Appointments shall be made within ninety (90) days from July 1,
131 2001.

132 (3) All subsequent appointments to the board shall be
133 appointed by the Governor for terms of four (4) years from the
134 expiration date of the previous term. No person shall be

135 appointed for more than two (2) consecutive terms. By approval of
136 the majority of the board, the service of a member may be extended
137 at the completion of a four-year term until a new member is
138 appointed or the current member is reappointed. The board shall
139 elect one (1) of the appointed massage therapists as the chairman
140 of the board.

141 (4) A majority of the board may appoint an executive
142 director and other such individuals, including an attorney, as may
143 be necessary to implement the provisions of this chapter. The
144 board may hold additional meetings at such times and places as it
145 deems necessary. A majority of the board shall constitute a
146 quorum and a majority of the board shall be required to grant or
147 revoke a license.

148 **SECTION 6.** Section 73-67-11, Mississippi Code of 1972, is
149 reenacted and amended as follows:

150 73-67-11. Before entering upon discharge of the duties of
151 the office, the executive director of the board shall furnish a
152 bond, approved by the board, to the state in the sum of Five
153 Thousand Dollars (\$5,000.00). The bond shall be conditioned upon
154 the faithful discharge of the duties of the office, the premium on
155 the bond shall be paid from funds paid into the State Treasury by
156 the director of the board, and the bond shall be deposited with
157 the Secretary of State. All fees and other monies collected or
158 received by the board shall be paid into and credited to a special
159 fund that is created in the State Treasury, which shall be known
160 as the "State Board of Massage Therapy Fund." Any interest earned
161 on the special fund shall be credited to the special fund and
162 shall not be paid into the State General Fund. Any unexpended
163 monies remaining in the special fund at the end of a fiscal year
164 shall not lapse into the State General Fund. Monies in the
165 special fund shall be expended exclusively for the purposes of
166 carrying out the provisions of this chapter. Disbursement of
167 monies in the special fund shall be made only upon warrants issued

168 by the State Fiscal Officer upon requisitions signed by the
169 treasurer of the board. The financial records of the board shall
170 be audited annually by the State Auditor. The board shall receive
171 no appropriations from any state funds for its support except from
172 the special fund.

173 **SECTION 7.** Section 73-67-13, Mississippi Code of 1972, is
174 reenacted as follows:

175 73-67-13. Each member of the board shall receive the per
176 diem authorized under Section 25-3-69 for each day actually
177 discharging his official duties, and shall receive reimbursement
178 for mileage and necessary expense incurred, as provided in Section
179 25-3-41. The expenses of the board in carrying out the provisions
180 of this chapter shall be paid upon requisitions signed by the
181 chairman and/or secretary of the board and warrants signed by the
182 State Fiscal Officer from the State Board of Massage Therapy Fund.
183 Such expenses shall not exceed the amount paid into the State
184 Treasury under the provisions of this chapter.

185 **SECTION 8.** Section 73-67-15, Mississippi Code of 1972, is
186 reenacted and amended as follows:

187 73-67-15. (1) The board shall:

188 (a) Adopt an official seal and keep a record of its
189 proceedings, persons licensed as massage therapists, and a record
190 of the licenses that have been revoked or suspended;

191 (b) Keep on file all appropriate records pertaining to
192 each license;

193 (c) Annually, on or before February 15, make a report
194 to the Governor and Legislature of all of its official acts during
195 the preceding year, its total receipts and disbursements, and a
196 full and complete report of relevant statistical and significantly
197 notable conditions of massage therapists in this state as
198 uniformly stipulated by the board;

199 (d) Evaluate the qualifications of applicants for
200 licensure under this chapter, and advise applicants as to the

201 acceptance or denial of a license with any reasons for denial
202 within forty-five (45) days;

203 (e) Issue a license to applicants who meet the
204 requirements of this chapter;

205 (f) Inspect, or have inspected, when required, the
206 business premises of any licensed massage therapist during their
207 operating hours, so long as that inspection does not infringe on
208 the reasonable privacy of any therapist's clients;

209 (g) Establish minimum training and educational
210 standards for obtaining a license under this chapter, provided
211 that requirements do not decrease;

212 (h) Establish a procedure for approval of educational
213 standards required by this chapter;

214 (i) Investigate persons suspected of engaging in
215 practices that may violate provisions of this chapter;

216 (j) Revoke, suspend or deny a license in accordance
217 with the provisions of this chapter;

218 (k) Adopt an annual budget;

219 (l) Establish policies with respect to continuing
220 education;

221 (m) Adopt rules:

222 * * *

223 (i) Specifying standards and procedures for
224 issuance of a * * * provisional permit;

225 (ii) Specifying licensing procedures for
226 practitioners desiring to be licensed in this state who hold an
227 active license or credentials from another state board;

228 * * *

229 (iii) The board shall prescribe renewal
230 procedures, requirements, dates and fees for massage therapy
231 licenses issued by the board and shall include provisions for
232 inactive and lapsed licenses;

233 (n) Make available all forms necessary for carrying out
234 all provisions of this chapter and any and all necessary business
235 of the board;

236 (o) Establish written duties of the executive director;

237 (p) Establish a set of reasonable and customary fines
238 and penalties for violations of this chapter, and fees, including
239 refund policies, which shall be standardized and not exceeded
240 unless amended with at least thirty (30) days' notice to those who
241 are licensed;

242 (q) Establish, amend or repeal any rules or regulations
243 necessary to carry out the purposes of this chapter and the duties
244 and responsibilities of the board. Affected practitioners shall
245 be sent relevant changes no less than once per license renewal;

246 (r) The board shall maintain a current register listing
247 the name of every massage therapist licensed to practice in this
248 state, his/her last known place of business and last known place
249 of residence, and the date and number of his/her license.

250 (s) The board shall set up guidelines for the operation
251 of schools of massage therapy, and it is charged with that
252 regulation in this state. The board may prescribe reasonable
253 rules and regulations governing schools of massage therapy for the
254 guidance of persons licensed under this chapter in the operation
255 of schools of massage therapy and in the practice of massage
256 therapy. When the board has reasons to believe that any of the
257 provisions of this chapter or the rules and regulations of the
258 board have been violated, either upon receipt of a written
259 complaint alleging those violations or upon the board's own
260 initiative, the board or any of its authorized agents shall
261 investigate same and may enter upon the premises of a school of
262 massage therapy at any time during regular business hours of that
263 school to conduct the investigation. The investigation may
264 include, but not be limited to, conducting oral interviews with
265 the complaining party, school or school owner(s) and/or students

266 of the school, and reviewing records of the school pertinent to
267 the complaint and related to an area subject to the authority of
268 the board.

269 (2) Each board member shall be held accountable to the
270 Governor for the proper performance of all duties and obligations
271 of the member's office. Board members shall be immune from civil
272 liability pertaining to any legal functions involving the carrying
273 out of the activities and responsibilities of this chapter.

274 **SECTION 9.** Section 73-67-17, Mississippi Code of 1972, is
275 reenacted and amended as follows:

276 73-67-17. The board may adopt rules:

277 (a) Establishing reasonable standards concerning the
278 sanitary, hygienic and healthful conditions of premises and
279 facilities used by massage therapists;

280 (b) Relating to the methods and procedures used in the
281 practice of massage;

282 (c) Governing the examination and investigation of
283 applicants for the license issued under this chapter and the
284 issuance, renewal, suspension and revocation of the license;

285 (d) Setting standards for certifying continuing
286 education classes;

287 (e) Requiring that massage therapists supply the board
288 with the accurate, current address or addresses where they
289 practice massage;

290 (f) Establishing the educational, training and
291 experience requirements for licensure by reciprocity;

292 (g) Establishing requirements for issuance and
293 retention of an inactive license and/or provisional permits.

294 **SECTION 10.** Section 73-67-19, Mississippi Code of 1972, is
295 reenacted and amended as follows:

296 73-67-19. (1) The board shall report to the proper district
297 attorney all cases that, in the judgment of the board, warrant
298 prosecution.

299 (2) Massage therapists or establishments may not be
300 discriminated against regarding business licenses and shall be
301 treated as any other health care profession.

302 (3) Any civil penalty imposed under this section shall
303 become due and payable when the person incurring the penalty
304 receives a notice in writing of the penalty. The notice shall be
305 sent by registered or certified mail. The person to whom the
306 notice is addressed shall have thirty (30) days from the date of
307 mailing of the notice in which to make written application for a
308 hearing. Any person who makes that application shall be entitled
309 to a hearing. The hearing shall be conducted as a contested case
310 hearing. When an order assessing a civil penalty under this
311 section becomes final by operation of law or on appeal, unless the
312 amount of penalty is paid within ten (10) days after the order
313 becomes final, it may be recorded with the circuit clerk in any
314 county of this state. The clerk shall then record the name of the
315 person incurring the penalty and the amount of the penalty in his
316 lien record book.

317 (4) Where the board proposes to refuse to grant or renew a
318 license or proposes to revoke or suspend a license, an opportunity
319 for a hearing shall be accorded. The board may designate any
320 competent person(s) to preside at the hearing. The board shall
321 promulgate rules for the conduct of hearings and issuance of
322 orders.

323 (5) The board may adopt rules requiring any person,
324 including, but not limited to, licensed massage therapists,
325 corporations, organizations, health care facilities and state or
326 local governmental agencies to report to the board any conviction,
327 determination or finding that a holder of a license has committed
328 an act that constitutes unprofessional conduct, or to report
329 information that indicates that the holder of a license may not be
330 able to practice his profession with reasonable skill and safety
331 to consumers as a result of a mental, emotional or physical

332 condition. If the entity fails to furnish a required report, the
333 board may petition the circuit court of the county in which the
334 entity resides or is found, and the court shall issue to the
335 entity an order to furnish the required report. A failure to obey
336 the order is a contempt of court.

337 (6) A person is immune from civil liability, whether direct
338 or derivative, for providing information to the board.

339 (7) Upon the complaint of any citizen of this state, or upon
340 its own motion, the board may investigate any alleged violation of
341 this chapter. In the conduct of investigations, the board may
342 take evidence; take the depositions of witnesses, including the
343 person charged; compel the appearance of witnesses, including the
344 person charged, before the board in person the same as in civil
345 cases; require answers to interrogations; and compel the
346 production of books, papers, accounts, documents and testimony
347 pertaining to the matter under investigation.

348 (8) The board shall make available, upon request, written
349 appeals procedures for anyone whose license has been denied,
350 suspended or revoked, and/or for anyone accused of violating any
351 provisions of this chapter.

352 (9) Any time the board intends to deny an application for
353 licensure, or suspend or revoke an existing license, the board
354 shall give the person an opportunity for a hearing before taking
355 final action.

356 **SECTION 11.** Section 73-67-21, Mississippi Code of 1972, is
357 reenacted and amended as follows:

358 73-67-21. (1) It shall be the responsibility of a massage
359 therapy establishment to verify the current licensure of any and
360 all persons practicing massage therapy at the location of or on
361 behalf of the establishment. Failure to comply is subject to
362 penalty assessed by the board of not less than Five Hundred
363 Dollars (\$500.00) and not more than One Thousand Dollars
364 (\$1,000.00) per offense.

365 (2) No person may advertise massage or practice massage for
366 compensation in this state unless he is licensed as a massage
367 therapist by the board. No person may use the title of or
368 represent himself to be a massage therapist or use any other
369 title, abbreviations, letters, figures, signs or devices that
370 indicate that the person is a massage therapist unless he is
371 licensed to practice massage therapy under the provisions of this
372 chapter. Massage establishments with six (6) or more licensed
373 massage therapists shall be exempt from the advertising provisions
374 found in Section 73-67-29 provided that the therapy or service is
375 performed by person(s) licensed under this chapter.

376 (3) The following are requirements for licensure:

377 (a) An applicant must be eighteen (18) years of age, or
378 older, on the date the application is submitted.

379 (b) An application must provide proof of high school
380 graduate equivalency.

381 (c) An applicant must be of legal status not only to
382 receive a license, but also to work in the State of Mississippi
383 with that license.

384 (d) An applicant must supply proof of current
385 certification in cardiopulmonary resuscitation (CPR) and first aid
386 of at least eight (8) hours of training, including practical
387 testing, and supply documentation of familiarity with the
388 Americans With Disabilities Act.

389 (e) All required fees for licensure must be submitted
390 by the applicant.

391 (f) Any and all requirements regarding good moral
392 character and competency, as provided for in this chapter and in
393 accepted codes of ethics, shall be met.

394 (g) An applicant must have completed an approved
395 continuing education course on communicable diseases, including
396 HIV/AIDS information and prevention.

397 (h) The applicant's official and certified
398 transcript(s) from the applicant's massage therapy school. The
399 transcript must verify that the applicant has completed a
400 board-approved training program of no less than the minimum
401 requirement for supervised in-class massage therapy instruction
402 and student clinic, with a minimum grade requirement of "C" or
403 better in every course of instruction, as stated for school
404 requirements; or if the applicant is submitting criteria from an
405 apprenticeship program, all required documentation, forms and
406 other board-stipulated requirements must be met.

407 (4) The following pre-act practitioners are exempt from
408 having to take any examination for licensure, but must fulfill all
409 other requirements as stated in this chapter, except for the
410 requirements in subsection (2)(h) of this section:

411 (a) Those having more than three hundred (300)
412 documented, board-accepted in-class hours of massage therapy
413 education before January 1, 2001.

414 (b) Those having more than five (5) years of
415 professional massage therapy experience and a minimum of one
416 hundred fifty (150) hours of approved massage therapy
417 education * * *.

418 (c) Those having no formal training, but who have
419 successfully passed the National Certification Examination for
420 Therapeutic Massage and Bodywork.

421 (d) All grandfathering exemption allowances as stated
422 in this section shall end on July 1, 2002, for nonstudents, and on
423 June 1, 2003, for students who were enrolled in a part-time
424 massage school curriculum on July 1, 2001. Individuals may apply
425 for a license until the grandfathering exemption ends, but may not
426 practice massage beyond the allowed grace period as provided for
427 in Section 73-67-37 unless a valid massage therapy license or
428 provisional permit is obtained. All other pre-act practitioners
429 and anyone not practicing massage therapy before January 1, 2001,

430 must take and pass the licensure examination and follow the
431 requirements in this chapter to practice massage therapy for
432 compensation in Mississippi.

433 (e) Students enrolled in a massage therapy curriculum
434 of at least five hundred (500) hours on July 1, 2001, who complete
435 graduation from the same curriculum.

436 **SECTION 12.** Section 73-67-23, Mississippi Code of 1972, is
437 reenacted and amended as follows:

438 73-67-23. (1) The purpose of requiring examination is to
439 determine that each applicant for licensure possesses the minimum
440 skills and knowledge to practice competently.

441 (2) The board shall accept as evidence of competency, in
442 addition to all other requirements as stated in this chapter, the
443 successful completion of the "National Certification Examination
444 for Therapeutic Massage and Bodywork" (NCETMB) and/or any other
445 nationally or internationally accredited examination approved by
446 the board.

447 (3) Eligibility requirements to take the NCETMB are set by
448 the National Certification Board for Therapeutic Massage and
449 Bodywork as stated in the NCETMB candidate handbook. Eligibility
450 to take the ABTE shall be determined by the National Certification
451 Commission for Acupuncture and Oriental Medicine as stated in the
452 NCCAOM candidate handbook.

453 (4) An applicant for licensure who has been previously
454 licensed may be required to take the NCETMB or ABTE or any other
455 examination approved by the board and achieve a passing score
456 before relicensure under any one (1) of the following
457 circumstances:

458 (a) The applicant has been unlicensed voluntarily for
459 more than thirty-six (36) calendar months; or

460 (b) The board may require reexamination in any
461 disciplinary order, based upon the findings and conclusions

462 relative to the competency of a holder of a license to practice
463 massage before issuing an unconditional license.

464 **SECTION 13.** Section 73-67-25, Mississippi Code of 1972, is
465 reenacted and amended as follows:

466 73-67-25. (1) An applicant may be licensed by demonstrating
467 proof that the applicant holds a valid, current license in another
468 state with similar educational requirements to those required by
469 this chapter, and that all other licensure requirements under this
470 chapter are met. This is subject to investigation by the board
471 and excludes grandfathering by other states.

472 (2) If an individual who is licensed in another state that
473 has licensing standards substantially equivalent to the standards
474 under this chapter applies for licensure, the board may issue a
475 provisional permit authorizing the applicant to practice massage
476 therapy pending completion of documentation that the applicant
477 meets the requirements for licensure under this chapter,
478 including, but not limited to, the Mississippi law examination.
479 The provisional permit may reflect statutory limitations on the
480 scope of practice.

481 (3) A current massage therapy license issued by the board
482 shall at all times be prominently displayed in any place where
483 massage therapy is being practiced.

484 (4) A license issued pursuant to this chapter is not
485 transferable or assignable.

486 **SECTION 14.** Section 73-67-27, Mississippi Code of 1972, is
487 reenacted and amended as follows:

488 73-67-27. (1) The board may refuse to issue or renew or may
489 deny, suspend or revoke any license held or applied for under this
490 chapter upon finding that the holder of a license or applicant:

491 (a) Is guilty of fraud, deceit or misrepresentation in
492 procuring or attempting to procure any license provided for in
493 this chapter;

494 (b) Attempted to use as his own the license of another;

- 495 (c) Allowed the use of his license by another;
- 496 (d) Has been adjudicated as mentally incompetent by
497 regularly constituted authorities;
- 498 (e) Has been convicted of a crime, or has charges or
499 disciplinary action pending that directly relates to the practice
500 of massage therapy or to the ability to practice massage therapy.
501 Any plea of nolo contendere shall be considered a conviction for
502 the purposes of this section;
- 503 (f) Is guilty of unprofessional or unethical conduct as
504 defined by the code of ethics;
- 505 (g) Is guilty of false, misleading or deceptive
506 advertising, or is guilty of aiding or assisting in the
507 advertising of any unlicensed or unpermitted person in the
508 practice of massage therapy;
- 509 (h) Is grossly negligent or incompetent in the practice
510 of massage therapy; * * *
- 511 (i) Has had rights, credentials or one or more
512 license(s) to practice massage therapy revoked, suspended or
513 denied in any jurisdiction, territory or possession of the United
514 States or another country for acts of the licensee similar to acts
515 described in this section. A certified copy of the record of the
516 jurisdiction making such a revocation, suspension or denial shall
517 be conclusive evidence thereof; or
- 518 (j) Has been convicted of any felony, other than a
519 violation of federal or state tax laws.

520 (2) Investigative proceedings may be implemented by a
521 complaint by any person, including members of the board.

522 (3) (a) Any person(s) found guilty of prostitution using as
523 any advertisement, claim or insignia of being an actual licensed
524 massage therapist or to be practicing massage therapy by using the
525 word "massage" or any other description indicating the same,
526 whether or not the person(s) have one or more licenses for
527 person(s) or establishment(s), shall be guilty of a misdemeanor,

528 and upon conviction, shall be punished by a fine of not less than
529 One Thousand Dollars (\$1,000.00), nor more than Five Thousand
530 Dollars (\$5,000.00), or imprisonment of up to six (6) months, or
531 both, per offense, per person.

532 (b) Any person who knowingly participates in receiving
533 illegal service(s) of any person found guilty as described in
534 paragraph (a) of this subsection, upon conviction, shall be
535 punished by a fine not exceeding Five Hundred Dollars (\$500.00),
536 or imprisonment for up to one (1) month, or both. Persons
537 officially designated to investigate complaints are exempt.

538 (c) Any person who violates any provision of this
539 chapter, other than violation(s) of paragraph (a) of this
540 subsection, is guilty of a misdemeanor, and upon conviction, shall
541 be punished by a fine not exceeding Five Hundred Dollars
542 (\$500.00), or imprisonment for up to one (1) month in jail, or
543 both, per offense.

544 (d) The board, in its discretion, may assess and tax
545 any part or all of the costs of any disciplinary proceedings
546 conducted against either the accused, the charging party, or both,
547 as it may elect.

548 **SECTION 15.** Section 73-67-29, Mississippi Code of 1972, is
549 reenacted and amended as follows:

550 73-67-29. (1) Any licensed massage therapist advertising by
551 the use of radio, newspaper, television, electronic media, flyers,
552 business cards, phone book or any other means shall include
553 legibly, or clearly audible, the massage therapy license number
554 issued to the therapist(s) on and/or with that advertising.

555 (2) Any and all advertising of the licensed massage
556 therapist shall be of a professional and ethical nature and shall
557 not be attached to or identified with any pornographic or other
558 establishment that may be construed as unprofessional and/or
559 unethical in the practice of professional massage therapy.

560 (3) No practice of, or advertisement by any means of, any
561 type of therapy involving soft tissue movement by the use of any
562 body part, instrument(s) or device(s), or any term that may be
563 interpreted to involve massage, shiatsu, acupressure, oriental,
564 Eastern or Asian massage techniques, spa, rub, or therapeutic
565 touch, shall be allowed unless that therapy is performed by
566 person(s) who are licensed or exempt as stated in this chapter.

567 (4) Providing information concerning continuing education of
568 massage therapy shall not constitute advertising as that term is
569 used in this section. National massage publications and
570 out-of-state instruction/education/information materials are
571 exempt.

572 (5) The advertising of any designation of massage, including
573 the word "Swedish" (as used in this context), shall not be allowed
574 in conjunction with any other term that the board finds
575 questionable. Questionable terms may include "bath," "shampoo"
576 and "escort."

577 (6) Massage schools that advertise for student clinic, or
578 any other type of student massage, must conspicuously include the
579 respective words "student massage" within the advertisement.

580 (7) Advertisers shall obtain the license number from each
581 massage therapist before entering into an agreement or contract to
582 advertise any form of massage therapy as stated in this chapter.
583 The license number(s) shall be part of the actual advertisement.

584 **SECTION 16.** Section 73-67-31, Mississippi Code of 1972, is
585 reenacted and amended as follows:

586 73-67-31. (1) All licensed massage therapists shall:

587 (a) Perform only those services for which they are
588 qualified and which represent their training and education;

589 (b) Acknowledge their professional limitations and
590 refer the client to an appropriate health professional when
591 necessary, in cases where massage may be or is contraindicated;

592 (c) Recognize and respect the rights of all ethical
593 practitioners and cooperate with health professionals in a
594 professional manner;

595 (d) Obtain and keep an overview or profile of the
596 client's state of being and health history and discuss any problem
597 areas that may contraindicate massage;

598 (e) Keep accurate and up-to-date records regarding a
599 client's condition before and after massage therapy session in
600 cases of a client being treated for a specific condition. Public,
601 sports and on-site seated massage sessions are exempt from
602 documentation; sports massage sessions are exempt from post-event
603 documentation;

604 (f) Provide sensitive attention and response to
605 client's comfort levels for pressure and touch, and shall not
606 cause bruising with any regularity;

607 (g) Maintain clear and honest communications with their
608 clients, and acknowledge the confidential nature of the
609 professional relationship with a client and respect rights to
610 privacy;

611 (h) Abide by all laws that pertain to their work as a
612 massage therapist;

613 (i) In no way instigate or tolerate any kind of sexual
614 advance while acting in the capacity of a massage therapist;

615 (j) Provide and use draping to cover all genitalia;

616 (k) Clean/disinfect his hands immediately before each
617 massage session and/or use medical gloves.

618 (2) No massage therapist shall diagnose or prescribe
619 medicine, drugs or treatment.

620 **SECTION 17.** Section 73-67-33, Mississippi Code of 1972, is
621 reenacted and amended as follows:

622 73-67-33. (1) Lavatories or wash basins provided with an
623 adequate supply of both hot and cold running water should be

624 available. Lavatories or wash basins shall be provided with soap
625 in a dispenser and paper, individual use towels, or air dryers.

626 (2) Any mobile massage shall have a previous recording of
627 the client's name, address where the therapy is to occur,
628 estimated time of return, and phone number (if available) in a
629 conspicuous record.

630 (3) Every massage establishment shall be equipped with a
631 workable telephone for emergency calls.

632 (4) * * * A copy of the State of Mississippi Professional
633 Massage Therapy Code of Ethics and Professional Conduct shall be
634 prominently displayed.

635 **SECTION 18.** Section 73-67-35, Mississippi Code of 1972, is
636 reenacted and amended as follows:

637 73-67-35. (1) To obtain a massage therapy license, an
638 applicant must submit to the board the applicant's official and
639 certified transcript(s) from the applicant's massage therapy
640 school. The transcript must verify that the applicant has
641 completed a board-approved training program of not less than six
642 hundred (600) hours of supervised in-class massage therapy
643 instruction, and at least one hundred (100) hours of student
644 clinic, with a minimum grade requirement of "C" or better in every
645 course of instruction, in the following subjects:

646 (a) Two hundred (200) hours in massage theory and
647 practicum;

648 (b) Two hundred (200) hours in science of the human
649 body;

650 (c) Two hundred (200) hours in allied modalities; and

651 (d) One hundred (100) hours in student clinic.

652 (2) "Massage theory and practicum" must include a minimum of
653 the following classroom hours in the specified subject areas:

654 (a) Ten (10) hours in legalities including Mississippi
655 massage law and ethics;

656 (b) Twenty (20) hours in history, benefits, indications
657 and contraindications;

658 (c) One hundred (100) hours in massage demonstration
659 and supervised practice, which must include, but is not limited
660 to, client evaluation, stroking, kneading, stretching, friction,
661 percussion, vibration, range of motion, hand held tools and
662 devices designated as t-bars or knobbies, and draping and turning;
663 and

664 (d) The remaining seventy (70) hours may expand on any
665 or all of the previous three (3) subject areas and/or be related
666 to practical massage.

667 (3) "Science of the human body" must include a minimum of
668 the following classroom hours in the specified subject areas:

669 (a) Twenty (20) hours in anatomy, including all body
670 systems;

671 (b) Twenty (20) hours in physiology, including all body
672 systems;

673 (c) Twenty (20) hours in myology/kinesiology;

674 (d) Twenty (20) hours in neurology;

675 (e) Twenty (20) hours in pathology, including medical
676 terminology; and

677 (f) The remaining one hundred (100) hours may expand on
678 any or all of the previous six (6) subject areas and/or be related
679 to the science of the human body.

680 (4) "Allied modalities" must include, but are not limited
681 to, a minimum of the following classroom hours in the specified
682 subject areas:

683 (a) Seven (7) hours in Eastern, European and Western
684 theory/methods;

685 (b) Eight (8) hours in cardiopulmonary resuscitation
686 (CPR) and first aid;

687 (c) Ten (10) hours in charting and documentation;

688 (d) Twenty-five (25) hours in hydrotherapy and infrared
689 heat;

690 (e) Twenty (20) hours in referral methods within the
691 health care system; and

692 (f) The remaining one hundred thirty (130) hours may
693 expand on any or all of the previous five (5) subject areas,
694 including the Americans With Disabilities Act, and/or be devoted
695 to any approach to massage therapy and wellness, such as trigger
696 points, management, communication, safety, oriental or Eastern
697 massage techniques and specialized populations.

698 (5) "Student clinic" must include at least thirty (30)
699 practical hands-on one-hour massage therapy sessions, outside of
700 class, to be evaluated on documents filed and kept on record at
701 the school for a minimum of six (6) months. These evaluations are
702 to be completed by the clients of the massage therapy sessions and
703 shall include the client's name, address, reason for session,
704 indications and contraindications, date and signature. Each
705 completed session shall constitute two (2) hours of student
706 clinic. The hands-on session may be supervised or nonsupervised.
707 The remaining forty (40) hours shall be acquired in an actual
708 clinical massage therapy establishment, student clinic or
709 location(s) approved by the school. These remaining forty (40)
710 hours shall be supervised, either directly or indirectly, and
711 shall also be documented.

712 (6) A massage therapy program shall not operate in the State
713 of Mississippi unless it meets the minimum standards of curriculum
714 for licensure as stated in this chapter. Massage schools and
715 message curriculums for licensure preparation must obtain a
716 national accreditation from such agencies as the Commission on
717 Massage Therapy Accreditation or programs with the same or greater
718 requirements. Existing massage schools will have five (5) years
719 from July 1, 2001, to obtain that accreditation. New massage

720 schools will have five (5) years from the opening of the massage
721 school to show conformance with the accreditation requirements.

722 (7) No massage therapy program shall consist of more than
723 forty (40) in-class clock hours per week.

724 (8) Hours credited through transfer credit shall not be
725 recognized by the board unless the following transfer standards
726 are met:

727 (a) The school shall be provided with a certified
728 transcript from a school licensed or approved in that state;

729 (b) Courses for which credit is granted shall parallel
730 in content and intensity to the course offered by the school; and

731 (c) Documentation of previous training shall be
732 included in each student's permanent file.

733 **SECTION 19.** Section 73-67-37, Mississippi Code of 1972, is
734 reenacted and amended as follows:

735 73-67-37. The grace period for a license to be issued shall
736 be from the effective date of this act until July 1, 2002. Those
737 meeting the minimum requirements as stated in this chapter, except
738 for obtaining a license, may continue the practice of massage
739 therapy or instruction thereof within the grace period. Massage
740 curriculums that begin before July 1, 2001, may continue with the
741 same curriculum until completion. Anyone not meeting the minimum
742 requirements as stated in this chapter shall not advertise massage
743 therapy or instruction thereof until they meet the minimum
744 requirements of this chapter.

745 **SECTION 20.** Section 73-67-39, Mississippi Code of 1972, is
746 amended as follows:

747 73-67-39. Sections 73-67-1 through 73-67-37 shall stand
748 repealed on July 1, 2006.

749 **SECTION 21.** Section 75-60-5, Mississippi Code of 1972, is
750 amended as follows:

751 75-60-5. The provisions of this chapter do not apply to the
752 following categories of courses, schools or colleges:

753 (a) Tuition-free courses or schools conducted by
754 employers exclusively for their own employees;

755 (b) Schools, colleges, technical institutes, community
756 colleges, junior colleges or universities under the jurisdiction
757 of the Board of Trustees of State Institutions of Higher Learning
758 or the State Board for Community and Junior Colleges;

759 (c) Schools or courses of instruction under the
760 jurisdiction of the State Board of Cosmetology, State Board of
761 Barber Examiners or the State Board of Massage Therapy;

762 (d) Courses of instruction required by law to be
763 approved or licensed, or given by institutions approved or
764 licensed, by a state board or agency other than the Commission on
765 Proprietary School and College Registration; however, a school so
766 approved or licensed may apply to the Commission on Proprietary
767 School and College Registration for a certificate of registration
768 to be issued in accordance with the provisions of this chapter;

769 (e) Correspondence courses;

770 (f) Nonprofit private schools offering academic credits
771 at primary or secondary levels, or conducting classes for
772 exceptional education as defined by regulations of the State
773 Department of Education;

774 (g) Private nonprofit colleges and universities or any
775 private school offering academic credits at primary, secondary or
776 postsecondary levels;

777 (h) Courses of instruction conducted by a public school
778 district or a combination of public school districts;

779 (i) Courses of instruction conducted outside the United
780 States;

781 (j) A school that offers only instruction in subjects
782 that the Commission on Proprietary School and College Registration
783 determines are primarily for avocational, personal improvement or
784 cultural purposes and that does not represent to the public that

785 its course of study or instruction will or may produce income for
786 those who take that study or instruction;

787 (k) Courses conducted primarily on an individual
788 tutorial basis, where not more than one (1) student is involved at
789 any one (1) time, except in those instances where the Commission
790 on Proprietary School and College Registration determines that the
791 course is for the purpose of preparing for a vocational objective;

792 (l) Kindergartens or similar programs for preschool-age
793 children.

794 **SECTION 22.** This act shall take effect and be in force from
795 and after June 30, 2004.