

By: Senator(s) Nunnelee

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2721

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 73-67-5 THROUGH
4 73-67-11, 73-67-15 THROUGH 73-67-29, 73-67-33 AND 73-67-39,
5 MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS, DELETE
6 PROVISIONAL REGISTRATION, REVISE REQUIREMENTS FOR PROVISIONAL
7 PERMITS, AUTHORIZE THE STATE BOARD OF MASSAGE THERAPY TO ESTABLISH
8 STANDARDS FOR THE OPERATION OF SCHOOLS OF MASSAGE THERAPY, DELETE
9 PROVISIONS THAT ALLOW LOCAL REGULATION OF MASSAGE THERAPISTS AND
10 ESTABLISHMENTS AND TO PROHIBIT DISCRIMINATION AGAINST SUCH FOR
11 BUSINESS LICENSES, TO REQUIRE ESTABLISHMENTS TO VERIFY PROPER
12 REGISTRATION OF MASSAGE THERAPISTS EMPLOYED, EMPOWER THE BOARD TO
13 ASSESS PENALTIES, AUTHORIZE THE BOARD TO ASSESS THE COSTS OF
14 DISCIPLINARY PROCEEDINGS, AND PRESCRIBE CERTAIN EDUCATIONAL
15 QUALIFICATIONS FOR REGISTRATION; TO AMEND SECTION 73-67-39,
16 MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON THE
17 MISSISSIPPI PROFESSIONAL MASSAGE THERAPY ACT; TO AMEND SECTION
18 75-60-5, MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS OR COURSES OF
19 INSTRUCTION UNDER THE JURISDICTION OF THE STATE BOARD OF MASSAGE
20 THERAPY FROM THE PROPRIETARY SCHOOL AND COLLEGE REGISTRATION LAW;
21 AND FOR RELATED PURPOSES.

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

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

25 73-67-1. This chapter shall be known and may be cited as the
26 "Mississippi Professional Massage Therapy Act."

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

29 73-67-3. The Legislature finds that in the profession and
30 practice of massage therapy there is a necessity to preserve and
31 protect individual life and health, promote the public interest
32 and welfare by providing for the registration of massage
33 therapists and assuring public safety.

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

36 73-67-5. (1) The provisions of this chapter shall not apply
37 to the following:

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

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

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

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

55 73-67-7. For purposes of this chapter, the following terms
56 shall have the meanings stated in this section, unless otherwise
57 stated:

58 * * *

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

62 (b) "Board" means the State Board for Registering
63 Massage Therapists as created in this chapter.

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

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

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

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

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

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

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

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

99 (k) "Pre-act practitioner" means an individual who has
100 practiced professional massage therapy before January 1, 2001.

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

103 * * *

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

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

110 73-67-9. (1) There is created the State Board of Massage
111 Therapy.

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

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

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

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

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

149 73-67-11. Before entering upon discharge of the duties of
150 the office, the executive director of the board shall furnish a
151 bond, approved by the board, to the state in the sum of Five
152 Thousand Dollars (\$5,000.00). The bond shall be conditioned upon
153 the faithful discharge of the duties of the office, the premium on
154 the bond shall be paid from funds paid into the State Treasury by
155 the director of the board, and the bond shall be deposited with
156 the Secretary of State. All fees and other monies collected or
157 received by the board shall be paid into and credited to a special
158 fund that is created in the State Treasury, which shall be known
159 as the "State Board of Massage Therapy Fund." Any interest earned
160 on the special fund shall be credited to the special fund and
161 shall not be paid into the State General Fund. Any unexpended
162 monies remaining in the special fund at the end of a fiscal year
163 shall not lapse into the State General Fund. Monies in the
164 special fund shall be expended exclusively for the purposes of
165 carrying out the provisions of this chapter. Disbursement of
166 monies in the special fund shall be made only upon warrants issued

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

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

174 73-67-13. Each member of the board shall receive the per
175 diem authorized under Section 25-3-69 for each day actually
176 discharging his official duties, and shall receive reimbursement
177 for mileage and necessary expense incurred, as provided in Section
178 25-3-41. The expenses of the board in carrying out the provisions
179 of this chapter shall be paid upon requisitions signed by the
180 chairman and/or secretary of the board and warrants signed by the
181 State Fiscal Officer from the State Board of Massage Therapy Fund.
182 Such expenses shall not exceed the amount paid into the State
183 Treasury under the provisions of this chapter.

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

186 73-67-15. (1) The board shall:

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

191 (b) Keep on file all appropriate records pertaining to
192 each certificate of registration;

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 registration under this chapter, and advise applicants as to the
201 acceptance or denial of registration with any reasons for denial
202 within forty-five (45) days;

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

205 (f) Inspect, or have inspected, when required, the
206 business premises of any registered 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 certificate of registration under this
211 chapter, provided 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 certificate of
217 registration in accordance 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 registration procedures for
226 practitioners desiring to be registered 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 certificates of registration issued by the board and shall include
232 provisions for inactive and lapsed registrations;

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 registered;

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 registration
246 renewal;

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

252 (s) The board shall set up guidelines for the operation
253 of schools of massage therapy, and it is charged with that
254 regulation in this state. The board may prescribe reasonable
255 rules and regulations governing schools of massage therapy for the
256 guidance of persons registered under this chapter in the operation
257 of schools of massage therapy and in the practice of massage
258 therapy. When the board has reasons to believe that any of the
259 provisions of this chapter or the rules and regulations of the
260 board have been violated, either upon receipt of a written
261 complaint alleging those violations or upon the board's own
262 initiative, the board or any of its authorized agents shall
263 investigate same and may enter upon the premises of a school of

264 massage therapy at any time during regular business hours of that
265 school to conduct the investigation. The investigation may
266 include, but not be limited to, conducting oral interviews with
267 the complaining party, school or school owner(s) and/or students
268 of the school, and reviewing records of the school pertinent to
269 the complaint and related to an area subject to the authority of
270 the board.

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

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

278 73-67-17. The board may adopt rules:

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

282 (b) Relating to the methods and procedures used in the
283 practice of massage;

284 (c) Governing the examination and investigation of
285 applicants for the certificates of registration issued under this
286 chapter and the issuance, renewal, suspension and revocation of
287 the certificate of registration;

288 (d) Setting standards for certifying continuing
289 education classes;

290 (e) Requiring that massage therapists supply the board
291 with the accurate, current address or addresses where they
292 practice massage;

293 (f) Establishing the educational, training and
294 experience requirements for registration by reciprocity;

295 (g) Establishing requirements for issuance and
296 retention of an inactive certificate of registration and/or
297 provisional permits.

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

300 73-67-19. (1) The board shall report to the proper district
301 attorney all cases that, in the judgment of the board, warrant
302 prosecution.

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

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

321 (4) Where the board proposes to refuse to grant or renew a
322 certificate of registration or proposes to revoke or suspend a
323 certificate of registration, an opportunity for a hearing shall be
324 accorded. The board may designate any competent person(s) to
325 preside at the hearing. The board shall promulgate rules for the
326 conduct of hearings and issuance of orders.

327 (5) The board may adopt rules requiring any person,
328 including, but not limited to, registered massage therapists,
329 corporations, organizations, health care facilities and state or
330 local governmental agencies to report to the board any conviction,
331 determination or finding that a holder of a certificate of
332 registration has committed an act that constitutes unprofessional
333 conduct, or to report information that indicates that the holder
334 of a certificate of registration may not be able to practice his
335 profession with reasonable skill and safety to consumers as a
336 result of a mental, emotional or physical condition. If the
337 entity fails to furnish a required report, the board may petition
338 the circuit court of the county in which the entity resides or is
339 found, and the court shall issue to the entity an order to furnish
340 the required report. A failure to obey the order is a contempt of
341 court.

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

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

353 (8) The board shall make available, upon request, written
354 appeals procedures for anyone whose certificate of registration
355 has been denied, suspended or revoked, and/or for anyone accused
356 of violating any provisions of this chapter.

357 (9) Any time the board intends to deny an application for
358 registration, or suspend or revoke an existing certificate of

359 registration, the board shall give the person an opportunity for a
360 hearing before taking final action.

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

363 73-67-21. (1) It shall be the responsibility of a massage
364 therapy establishment to verify the current registration of any
365 and all persons practicing massage therapy at the location of or
366 on behalf of the establishment. Failure to comply is subject to
367 penalty assessed by the board of not less than Five Hundred
368 Dollars (\$500.00) and not more than One Thousand Dollars
369 (\$1,000.00) per offense.

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

381 (3) The following are requirements for registration:

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

384 (b) An application must provide proof of high school
385 graduate equivalency.

386 (c) An applicant must be of legal status not only to
387 receive a certificate of registration, but also to work in the
388 State of Mississippi with that certificate of registration.

389 (d) An applicant must supply proof of current
390 certification in cardiopulmonary resuscitation (CPR) and first aid
391 of at least eight (8) hours of training, including practical

392 testing, and supply documentation of familiarity with the
393 Americans With Disabilities Act.

394 (e) All required fees for registration must be
395 submitted by the applicant.

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

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

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

412 (4) The following pre-act practitioners are exempt from
413 having to take any examination for registration, but must fulfill
414 all other requirements as stated in this chapter, except for the
415 requirements in subsection (2)(h) of this section:

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

419 (b) Those having more than five (5) years of
420 professional massage therapy experience and a minimum of one
421 hundred fifty (150) hours of approved massage therapy
422 education * * *.

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

426 (d) All grandfathering exemption allowances as stated
427 in this section shall end on July 1, 2002, for nonstudents, and on
428 June 1, 2003, for students who were enrolled in a part-time
429 massage school curriculum on July 1, 2001. Individuals may apply
430 for a certificate of registration until the grandfathering
431 exemption ends, but may not practice massage beyond the allowed
432 grace period as provided for in Section 73-67-37 unless a valid
433 massage therapy certificate of registration or provisional permit
434 is obtained. All other pre-act practitioners and anyone not
435 practicing massage therapy before January 1, 2001, must take and
436 pass the registration examination and follow the requirements in
437 this chapter to practice massage therapy for compensation in
438 Mississippi.

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

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

444 73-67-23. (1) The purpose of requiring examination is to
445 determine that each applicant for registration possesses the
446 minimum skills and knowledge to practice competently.

447 (2) The board shall accept as evidence of competency, in
448 addition to all other requirements as stated in this chapter, the
449 successful completion of the "National Certification Examination
450 for Therapeutic Massage and Bodywork" (NCETMB) and/or any other
451 nationally or internationally accredited examination approved by
452 the board.

453 (3) Eligibility requirements to take the NCETMB are set by
454 the National Certification Board for Therapeutic Massage and
455 Bodywork as stated in the NCETMB candidate handbook. Eligibility

456 to take the ABTE shall be determined by the National Certification
457 Commission for Acupuncture and Oriental Medicine as stated in the
458 NCCAOM candidate handbook.

459 (4) An applicant for registration who has been previously
460 registered may be required to take the NCETMB or ABTE or any other
461 examination approved by the board and achieve a passing score
462 before re-registration under any one (1) of the following
463 circumstances:

464 (a) The applicant has been unregistered voluntarily for
465 more than thirty-six (36) calendar months; or

466 (b) The board may require reexamination in any
467 disciplinary order, based upon the findings and conclusions
468 relative to the competency of a holder of a certificate of
469 registration to practice massage before issuing an unconditional
470 certificate of registration.

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

473 73-67-25. (1) An applicant may be registered by
474 demonstrating proof that the applicant holds a valid, current
475 license in another state with similar educational requirements to
476 those required by this chapter, and that all other registration
477 requirements under this chapter are met. This is subject to
478 investigation by the board and excludes grandfathering by other
479 states.

480 (2) If an individual who is licensed in another state that
481 has licensing standards substantially equivalent to the standards
482 under this chapter applies for registration, the board may issue a
483 provisional permit authorizing the applicant to practice massage
484 therapy pending completion of documentation that the applicant
485 meets the requirements for registration under this chapter,
486 including, but not limited to, the Mississippi law examination.
487 The provisional permit may reflect statutory limitations on the
488 scope of practice.

489 (3) A current massage therapy certificate of registration
490 issued by the board shall at all times be prominently displayed in
491 any place where massage therapy is being practiced.

492 (4) A certificate of registration issued pursuant to this
493 chapter is not transferable or assignable.

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

496 73-67-27. (1) The board may refuse to issue or renew or may
497 deny, suspend or revoke any certificate of registration held or
498 applied for under this chapter upon finding that the holder of a
499 certificate of registration or applicant:

500 (a) Is guilty of fraud, deceit or misrepresentation in
501 procuring or attempting to procure any certificate of registration
502 provided for in this chapter;

503 (b) Attempted to use as his own the certificate of
504 registration of another;

505 (c) Allowed the use of his certificate of registration
506 by another;

507 (d) Has been adjudicated as mentally incompetent by
508 regularly constituted authorities;

509 (e) Has been convicted of a crime, or has charges or
510 disciplinary action pending that directly relates to the practice
511 of massage therapy or to the ability to practice massage therapy.
512 Any plea of nolo contendere shall be considered a conviction for
513 the purposes of this section;

514 (f) Is guilty of unprofessional or unethical conduct as
515 defined by the code of ethics;

516 (g) Is guilty of false, misleading or deceptive
517 advertising, or is guilty of aiding or assisting in the
518 advertising of any unregistered or unpermitted person in the
519 practice of massage therapy;

520 (h) Is grossly negligent or incompetent in the practice
521 of massage therapy; * * *

522 (i) Has had rights, credentials or one or more
523 license(s) to practice massage therapy revoked, suspended or
524 denied in any jurisdiction, territory or possession of the United
525 States or another country for acts of the licensee similar to acts
526 described in this section. A certified copy of the record of the
527 jurisdiction making such a revocation, suspension or denial shall
528 be conclusive evidence thereof; or

529 (j) Has been convicted of any felony, other than a
530 violation of federal or state tax laws.

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

533 (3) (a) Any person(s) found guilty of prostitution using as
534 any advertisement, claim or insignia of being an actual registered
535 massage therapist or to be practicing massage therapy by using the
536 word "massage" or any other description indicating the same,
537 whether or not the person(s) have one or more such certificate of
538 registration for person(s) or establishment(s), shall be guilty of
539 a misdemeanor, and upon conviction, shall be punished by a fine of
540 not less than One Thousand Dollars (\$1,000.00), nor more than Five
541 Thousand Dollars (\$5,000.00), or imprisonment of up to six (6)
542 months, or both, per offense, per person.

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

549 (c) Any person who violates any provision of this
550 chapter, other than violation(s) of paragraph (a) of this
551 subsection, is guilty of a misdemeanor, and upon conviction, shall
552 be punished by a fine not exceeding Five Hundred Dollars
553 (\$500.00), or imprisonment for up to one (1) month in jail, or
554 both, per offense.

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

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

561 73-67-29. (1) Any registered massage therapist advertising
562 by the use of radio, newspaper, television, electronic media,
563 flyers, business cards, phone book or any other means shall
564 include legibly, or clearly audible, the massage therapy
565 certificate of registration number issued to the therapist(s) on
566 and/or with that advertising.

567 (2) Any and all advertising of the registered massage
568 therapist shall be of a professional and ethical nature and shall
569 not be attached to or identified with any pornographic or other
570 establishment that may be construed as unprofessional and/or
571 unethical in the practice of professional massage therapy.

572 (3) No practice of, or advertisement by any means of, any
573 type of therapy involving soft tissue movement by the use of any
574 body part, instrument(s) or device(s), or any term that may be
575 interpreted to involve massage, shiatsu, acupressure, oriental,
576 Eastern or Asian massage techniques, spa, rub, or therapeutic
577 touch, shall be allowed unless that therapy is performed by
578 person(s) who are registered or exempt as stated in this chapter.

579 (4) Providing information concerning continuing education of
580 massage therapy shall not constitute advertising as that term is
581 used in this section. National massage publications and
582 out-of-state instruction/education/information materials are
583 exempt.

584 (5) The advertising of any designation of massage, including
585 the word "Swedish" (as used in this context), shall not be allowed
586 in conjunction with any other term that the board finds

587 questionable. Questionable terms may include "bath," "shampoo"
588 and "escort."

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

592 (7) Advertisers shall obtain the registration number from
593 each massage therapist before entering into an agreement or
594 contract to advertise any form of massage therapy as stated in
595 this chapter. The registration number(s) shall be part of the
596 actual advertisement.

597 **SECTION 16.** Section 73-67-31, Mississippi Code of 1972, is
598 reenacted as follows:

599 73-67-31. (1) All registered massage therapists shall:

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

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

605 (c) Recognize and respect the rights of all ethical
606 practitioners and cooperate with health professionals in a
607 professional manner;

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

611 (e) Keep accurate and up-to-date records regarding a
612 client's condition before and after massage therapy session in
613 cases of a client being treated for a specific condition. Public,
614 sports and on-site seated massage sessions are exempt from
615 documentation; sports massage sessions are exempt from post-event
616 documentation;

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

620 (g) Maintain clear and honest communications with their
621 clients, and acknowledge the confidential nature of the
622 professional relationship with a client and respect rights to
623 privacy;

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

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

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

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

631 (2) No massage therapist shall diagnose or prescribe
632 medicine, drugs or treatment.

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

635 73-67-33. (1) Lavatories or wash basins provided with an
636 adequate supply of both hot and cold running water should be
637 available. Lavatories or wash basins shall be provided with soap
638 in a dispenser and paper, individual use towels, or air dryers.

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

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

645 (4) * * * A copy of the State of Mississippi Professional
646 Massage Therapy Code of Ethics and Professional Conduct shall be
647 prominently displayed.

648 **SECTION 18.** Section 73-67-35, Mississippi Code of 1972, is
649 reenacted as follows:

650 73-67-35. (1) To obtain a massage therapy certificate of
651 registration, an applicant must submit to the board the
652 applicant's official and certified transcript(s) from the

653 applicant's massage therapy school. The transcript must verify
654 that the applicant has completed a board-approved training program
655 of not less than six hundred (600) hours of supervised in-class
656 massage therapy instruction, and at least one hundred (100) hours
657 of student clinic, with a minimum grade requirement of "C" or
658 better in every course of instruction, in the following subjects:

659 (a) Two hundred (200) hours in massage theory and
660 practicum;

661 (b) Two hundred (200) hours in science of the human
662 body;

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

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

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

667 (a) Ten (10) hours in legalities including Mississippi
668 massage law and ethics;

669 (b) Twenty (20) hours in history, benefits, indications
670 and contraindications;

671 (c) One hundred (100) hours in massage demonstration
672 and supervised practice, which must include, but is not limited
673 to, client evaluation, stroking, kneading, stretching, friction,
674 percussion, vibration, range of motion, hand held tools and
675 devices designated as t-bars or knobbies, and draping and turning;
676 and

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

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

682 (a) Twenty (20) hours in anatomy, including all body
683 systems;

684 (b) Twenty (20) hours in physiology, including all body
685 systems;

686 (c) Twenty (20) hours in myology/kinesiology;
687 (d) Twenty (20) hours in neurology;
688 (e) Twenty (20) hours in pathology, including medical
689 terminology; and

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

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

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

698 (b) Eight (8) hours in cardiopulmonary resuscitation
699 (CPR) and first aid;

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

701 (d) Twenty-five (25) hours in hydrotherapy and infrared
702 heat;

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

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

711 (5) "Student clinic" must include at least thirty (30)
712 practical hands-on one-hour massage therapy sessions, outside of
713 class, to be evaluated on documents filed and kept on record at
714 the school for a minimum of six (6) months. These evaluations are
715 to be completed by the clients of the massage therapy sessions and
716 shall include the client's name, address, reason for session,
717 indications and contraindications, date and signature. Each
718 completed session shall constitute two (2) hours of student

719 clinic. The hands-on session may be supervised or nonsupervised.
720 The remaining forty (40) hours shall be acquired in an actual
721 clinical massage therapy establishment, student clinic or
722 location(s) approved by the school. These remaining forty (40)
723 hours shall be supervised, either directly or indirectly, and
724 shall also be documented.

725 (6) A massage therapy program shall not operate in the State
726 of Mississippi unless it meets the minimum standards of curriculum
727 for registration as stated in this chapter. Massage schools and
728 massage curriculums for registration preparation must obtain a
729 national accreditation from such agencies as the Commission on
730 Massage Therapy Accreditation or programs with the same or greater
731 requirements. Existing massage schools will have five (5) years
732 from July 1, 2001, to obtain that accreditation. New massage
733 schools will have five (5) years from the opening of the massage
734 school to show conformance with the accreditation requirements.

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

737 (8) Hours credited through transfer credit shall not be
738 recognized by the board unless the following transfer standards
739 are met:

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

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

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

746 **SECTION 19.** Section 73-67-37, Mississippi Code of 1972, is
747 reenacted as follows:

748 73-67-37. The grace period for certificates of registration
749 to be issued shall be from the effective date of this act until
750 July 1, 2002. Those meeting the minimum requirements as stated in
751 this chapter, except for obtaining a certificate of registration,

752 may continue the practice of massage therapy or instruction
753 thereof within the grace period. Massage curriculums that begin
754 before July 1, 2001, may continue with the same curriculum until
755 completion. Anyone not meeting the minimum requirements as stated
756 in this chapter shall not advertise massage therapy or instruction
757 thereof until they meet the minimum requirements of this chapter.

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

760 73-67-39. Sections 73-67-1 through 73-67-37 shall stand
761 repealed on July 1, 2008.

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

764 75-60-5. The provisions of this chapter do not apply to the
765 following categories of courses, schools or colleges:

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

768 (b) Schools, colleges, technical institutes, community
769 colleges, junior colleges or universities under the jurisdiction
770 of the Board of Trustees of State Institutions of Higher Learning
771 or the State Board for Community and Junior Colleges;

772 (c) Schools or courses of instruction under the
773 jurisdiction of the State Board of Cosmetology, State Board of
774 Barber Examiners or the State Board of Massage Therapy;

775 (d) Courses of instruction required by law to be
776 approved or licensed, or given by institutions approved or
777 licensed, by a state board or agency other than the Commission on
778 Proprietary School and College Registration; however, a school so
779 approved or licensed may apply to the Commission on Proprietary
780 School and College Registration for a certificate of registration
781 to be issued in accordance with the provisions of this chapter;

782 (e) Correspondence courses;

783 (f) Nonprofit private schools offering academic credits
784 at primary or secondary levels, or conducting classes for

785 exceptional education as defined by regulations of the State
786 Department of Education;

787 (g) Private nonprofit colleges and universities or any
788 private school offering academic credits at primary, secondary or
789 postsecondary levels;

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

792 (i) Courses of instruction conducted outside the United
793 States;

794 (j) A school that offers only instruction in subjects
795 that the Commission on Proprietary School and College Registration
796 determines are primarily for avocational, personal improvement or
797 cultural purposes and that does not represent to the public that
798 its course of study or instruction will or may produce income for
799 those who take that study or instruction;

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

805 (l) Kindergartens or similar programs for preschool-age
806 children.

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