

By: Senator(s) Nunnelee

To: Public Health and Welfare

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 SECTIONS 73-67-3 THROUGH 73-67-37,
 4 MISSISSIPPI CODE OF 1972, TO CHANGE PROVISIONS FOR MASSAGE
 5 THERAPIST "REGISTRATION" TO MASSAGE THERAPIST "LICENSURE," TO
 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 WHICH 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, TO EMPOWER THE BOARD TO ASSESS PENALTIES, TO
 14 AUTHORIZE THE BOARD TO ASSESS THE COSTS OF DISCIPLINARY
 15 PROCEEDINGS, AND TO PRESCRIBE CERTAIN EDUCATIONAL QUALIFICATIONS
 16 FOR LICENSURE; TO AMEND SECTION 73-67-39, MISSISSIPPI CODE OF
 17 1972, TO EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI
 18 PROFESSIONAL MASSAGE THERAPY ACT; AND FOR RELATED PURPOSES.

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

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

22 73-67-1. This chapter shall be known and may be cited as the
 23 "Mississippi Professional Massage Therapy Act."

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

26 73-67-3. The Legislature finds that in the profession and
 27 practice of massage therapy there is a necessity to preserve and
 28 protect individual life and health, promote the public interest
 29 and welfare by providing for the licensure of massage therapists
 30 and assuring public safety.

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

33 73-67-5. (1) The provisions of this chapter shall not apply
 34 to the following:

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

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

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

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

52 73-67-7. For purposes of this chapter, the following terms
53 shall have the meanings stated in this section, unless otherwise
54 stated:

55 * * *

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

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

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

66 (d) "Classroom hour" means no less than fifty (50)
67 minutes of any one (1) clock hour during which the student

68 participates in a learning activity under the supervision of a
69 member of the faculty of the school.

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

72 (f) "License" means a State Board of Massage Therapy
73 approved form of credential indicating that the license holder has
74 met the requirements of this chapter for the practice of massage
75 therapy.

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

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

92 (i) "Massage therapist" means a person who practices
93 massage therapy.

94 (j) "MPMTA" means the "Mississippi Professional Massage
95 Therapy Act."

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

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

100 * * *

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

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

107 73-67-9. (1) There is created the State Board of Massage
108 Therapy.

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

128 (3) All subsequent appointments to the board shall be
129 appointed by the Governor for terms of four (4) years from the
130 expiration date of the previous term. No person shall be
131 appointed for more than two (2) consecutive terms. By approval of
132 the majority of the board, the service of a member may be extended
133 at the completion of a four-year term until a new member is

134 appointed or the current member is reappointed. The board shall
135 elect one (1) of the appointed massage therapists as the chairman
136 of the board.

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

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

146 73-67-11. Before entering upon discharge of the duties of
147 the office, the executive director of the board shall furnish a
148 bond, approved by the board, to the state in the sum of Five
149 Thousand Dollars (\$5,000.00). The bond shall be conditioned upon
150 the faithful discharge of the duties of the office, the premium on
151 the bond shall be paid from funds paid into the State Treasury by
152 the director of the board, and the bond shall be deposited with
153 the Secretary of State. All fees and other monies collected or
154 received by the board shall be paid into and credited to a special
155 fund that is created in the State Treasury, which shall be known
156 as the "State Board of Massage Therapy Fund." Any interest earned
157 on the special fund shall be credited to the special fund and
158 shall not be paid into the State General Fund. Any unexpended
159 monies remaining in the special fund at the end of a fiscal year
160 shall not lapse into the State General Fund. Monies in the
161 special fund shall be expended exclusively for the purposes of
162 carrying out the provisions of this chapter. Disbursement of
163 monies in the special fund shall be made only upon warrants issued
164 by the State Fiscal Officer upon requisitions signed by the
165 treasurer of the board. The financial records of the board shall
166 be audited annually by the State Auditor. The board shall receive

167 no appropriations from any state funds for its support except from
168 the special fund.

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

171 73-67-13. Each member of the board shall receive the per
172 diem authorized under Section 25-3-69 for each day actually
173 discharging his official duties, and shall receive reimbursement
174 for mileage and necessary expense incurred, as provided in Section
175 25-3-41. The expenses of the board in carrying out the provisions
176 of this chapter shall be paid upon requisitions signed by the
177 chairman and/or secretary of the board and warrants signed by the
178 State Fiscal Officer from the State Board of Massage Therapy Fund.
179 Such expenses shall not exceed the amount paid into the State
180 Treasury under the provisions of this chapter.

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

183 73-67-15. (1) The board shall:

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

187 (b) Keep on file all appropriate records pertaining to
188 each license;

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

195 (d) Evaluate the qualifications of applicants for
196 licensure under this chapter, and advise applicants as to the
197 acceptance or denial of a license with any reasons for denial
198 within forty-five (45) days;

- 199 (e) Issue a license to applicants who meet the
200 requirements of this chapter;
- 201 (f) Inspect, or have inspected, when required, the
202 business premises of any licensed massage therapist during their
203 operating hours, so long as such inspection does not infringe on
204 the reasonable privacy of any therapist's clients;
- 205 (g) Establish minimum training and educational
206 standards for obtaining a license under this chapter, provided
207 that requirements do not decrease;
- 208 (h) Establish a procedure for approval of educational
209 standards required by this chapter;
- 210 (i) Investigate persons suspected of engaging in
211 practices which may violate provisions of this chapter;
- 212 (j) Revoke, suspend or deny a license in accordance
213 with the provisions of this chapter;
- 214 (k) Adopt an annual budget;
- 215 (l) Establish policies with respect to continuing
216 education;
- 217 (m) Adopt rules:
- 218 * * *
- 219 (i) Specifying standards and procedures for
220 issuance of a * * * provisional permit;
- 221 (ii) Specifying licensing procedures for
222 practitioners desiring to be licensed in this state who hold an
223 active license or credentials from another state board;
- 224 * * *
- 225 (iii) The board shall prescribe renewal
226 procedures, requirements, dates and fees for massage therapy
227 licenses issued by the board and shall include provisions for
228 inactive and lapsed licenses;
- 229 (n) Make available all forms necessary for carrying out
230 all provisions of this chapter and any and all necessary business
231 of the board;

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

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

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

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

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

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

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

272 73-67-17. The board may adopt rules:

273 (a) Establishing reasonable standards concerning the
274 sanitary, hygienic and healthful conditions of premises and
275 facilities used by massage therapists;

276 (b) Relating to the methods and procedures used in the
277 practice of massage;

278 (c) Governing the examination and investigation of
279 applicants for the license issued under this chapter and the
280 issuance, renewal, suspension and revocation of such license;

281 (d) Setting standards for certifying continuing
282 education classes;

283 (e) Requiring that massage therapists supply the board
284 with the accurate, current address or addresses where they
285 practice massage;

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

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

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

292 73-67-19. (1) The board shall report to the proper district
293 attorney all cases that, in the judgment of the board, warrant
294 prosecution.

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

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

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

319 (5) The board may adopt rules requiring any person,
320 including, but not limited to, licensed massage therapists,
321 corporations, organizations, health care facilities and state or
322 local governmental agencies to report to the board any conviction,
323 determination or finding that a holder of a license has committed
324 an act that constitutes unprofessional conduct, or to report
325 information that indicates that the holder of a license may not be
326 able to practice his profession with reasonable skill and safety
327 to consumers as a result of a mental, emotional or physical
328 condition. If such entity fails to furnish a required report, the
329 board may petition the circuit court of the county in which the
330 entity resides or is found, and the court shall issue to the

331 entity an order to furnish the required report. A failure to obey
332 the order is a contempt of court.

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

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

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

348 (9) Any time the board intends to deny an application for
349 licensure, or suspend or revoke an existing license, the board
350 shall give the person an opportunity for a hearing before taking
351 final action.

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

354 73-67-21. (1) It shall be the responsibility of a massage
355 therapy establishment to verify the current licensure of any and
356 all persons practicing massage therapy at their location or on
357 their behalf. Failure to comply is subject to penalty assessed by
358 the board of not less than Five Hundred Dollars (\$500.00) and not
359 more than One Thousand Dollars (\$1,000.00) per offense.

360 (2) No person may advertise massage or practice massage for
361 compensation in this state unless he is licensed as a massage
362 therapist by the board. No person may use the title of or
363 represent himself to be a massage therapist or use any other

364 title, abbreviations, letters, figures, signs or devices that
365 indicate that such person is a massage therapist unless he is
366 licensed to practice massage therapy under the provisions of this
367 chapter. Massage establishments with six (6) or more licensed
368 massage therapists shall be exempt from the advertising provisions
369 found in Section 73-67-29 provided that such therapy or service is
370 performed by person(s) licensed under this chapter.

371 (3) The following are requirements for licensure:

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

374 (b) An application must provide proof of high school
375 graduate equivalency.

376 (c) An applicant must be of legal status not only to
377 receive a license, but also to work in the State of Mississippi
378 with such license.

379 (d) An applicant must supply proof of current
380 certification in cardiopulmonary resuscitation (CPR) and first aid
381 of at least eight (8) hours of training, including practical
382 testing, and supply documentation of familiarity with the
383 Americans With Disabilities Act.

384 (e) All required fees for licensure must be submitted
385 by the applicant.

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

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

392 (h) The applicant's official and certified
393 transcript(s) from the applicant's massage therapy school. Such
394 transcript must verify that the applicant has completed a
395 board-approved training program of no less than the minimum
396 requirement for supervised in-class massage therapy instruction

397 and student clinic, with a minimum grade requirement of "C" or
398 better in every course of instruction, as stated for school
399 requirements; or if the applicant is submitting criteria from an
400 apprenticeship program, all required documentation, forms and
401 other board-stipulated requirements must be met.

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

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

409 (b) Those having more than five (5) years of
410 professional massage therapy experience and a minimum of one
411 hundred fifty (150) hours of approved massage therapy
412 education * * *.

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

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

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

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

433 73-67-23. (1) The purpose of requiring examination is to
434 determine that each applicant for licensure possesses the minimum
435 skills and knowledge to practice competently.

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

442 (3) Eligibility requirements to take the NCETMB are set by
443 the National Certification Board for Therapeutic Massage and
444 Bodywork as stated in the NCETMB candidate handbook. Eligibility
445 to take the ABTE shall be determined by the National Certification
446 Commission for Acupuncture and Oriental Medicine as stated in the
447 NCCAOM candidate handbook.

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

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

455 (b) The board may require reexamination in any
456 disciplinary order, based upon the findings and conclusions
457 relative to the competency of a holder of a license to practice
458 massage before issuing an unconditional license.

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

461 73-67-25. (1) An applicant may be licensed by demonstrating
462 proof that the applicant holds a valid, current license in another
463 state with similar educational requirements to those required by
464 this chapter, and that all other licensure requirements under this
465 chapter are met. This is subject to investigation by the board
466 and excludes grandfathering by other states.

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

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

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

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

483 73-67-27. (1) The board may refuse to issue or renew or may
484 deny, suspend or revoke any license held or applied for under this
485 chapter upon finding that the holder of a license or applicant:

486 (a) Is guilty of fraud, deceit or misrepresentation in
487 procuring or attempting to procure any license provided for in
488 this chapter;

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

490 (c) Allowed the use of his license by another;

491 (d) Has been adjudicated as mentally incompetent by
492 regularly constituted authorities;

493 (e) Has been convicted of a crime, or has charges or
494 disciplinary action pending that directly relates to the practice
495 of massage therapy or to the ability to practice massage therapy.
496 Any plea of nolo contendere shall be considered a conviction for
497 the purposes of this section;

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

500 (g) Is guilty of false, misleading or deceptive
501 advertising, or is guilty of aiding or assisting in the
502 advertising of any unlicensed or unpermitted person in the
503 practice of massage therapy;

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

506 (i) Has had rights, credentials or one or more
507 license(s) to practice massage therapy revoked, suspended or
508 denied in any jurisdiction, territory or possession of the United
509 States or another country for acts of the licensee similar to acts
510 described in this section. A certified copy of the record of the
511 jurisdiction making such a revocation, suspension or denial shall
512 be conclusive evidence thereof; or

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

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

517 (3) (a) Any person(s) found guilty of prostitution using as
518 any advertisement, claim or insignia of being an actual licensed
519 massage therapist or to be practicing massage therapy by using the
520 word "massage" or any other description indicating the same,
521 whether or not such person(s) have one or more such license for
522 person(s) or establishment(s), shall be guilty of a misdemeanor,
523 and upon conviction, shall be punished by a fine of not less than
524 One Thousand Dollars (\$1,000.00), nor more than Five Thousand

525 Dollars (\$5,000.00), or imprisonment of up to six (6) months, or
526 both, per offense, per person.

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

533 (c) Any person who violates any provision of this
534 chapter, other than violation(s) of paragraph (a) of this
535 subsection, is guilty of a misdemeanor, and upon conviction, shall
536 be punished by a fine not exceeding Five Hundred Dollars
537 (\$500.00), or imprisonment for up to one (1) month in jail, or
538 both, per offense.

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

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

545 73-67-29. (1) Any licensed massage therapist advertising by
546 the use of radio, newspaper, television, electronic media, flyers,
547 business cards, phone book or any other means shall include
548 legibly, or clearly audible, the massage therapy license number
549 issued to the therapist(s) on and/or with such advertising.

550 (2) Any and all advertising of the licensed massage
551 therapist shall be of a professional and ethical nature and shall
552 not be attached to or identified with any pornographic or other
553 establishment that may be construed as unprofessional and/or
554 unethical in the practice of professional massage therapy.

555 (3) No practice of, or advertisement by any means of, any
556 type of therapy involving soft tissue movement by the use of any
557 body part, instrument(s) or device(s), or any term that may be

558 interpreted to involve massage, shiatsu, acupressure, oriental,
559 Eastern or Asian massage techniques, spa, rub, or therapeutic
560 touch, shall be allowed unless such therapy is performed by
561 person(s) who are licensed or exempt as stated in this chapter.

562 (4) Providing information concerning continuing education of
563 massage therapy shall not constitute advertising as that term is
564 used in this section. National massage publications and
565 out-of-state instruction/education/information materials are
566 exempt.

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

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

575 (7) Advertisers shall obtain the license number from each
576 massage therapist prior to entering into an agreement or contract
577 to advertise any form of massage therapy as stated in this
578 chapter. Such license number(s) shall be part of the actual
579 advertisement.

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

582 73-67-31. (1) All licensed massage therapists shall:

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

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

588 (c) Recognize and respect the rights of all ethical
589 practitioners and cooperate with health professionals in a
590 professional manner;

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

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

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

603 (g) Maintain clear and honest communications with their
604 clients, and acknowledge the confidential nature of the
605 professional relationship with a client and respect rights to
606 privacy;

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

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

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

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

614 (2) No massage therapist shall diagnose or prescribe
615 medicine, drugs or treatment.

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

618 73-67-33. (1) Lavatories or wash basins provided with an
619 adequate supply of both hot and cold running water should be
620 available. Lavatories or wash basins shall be provided with soap
621 in a dispenser and paper, individual use towels, or air dryers.

622 (2) Any mobile massage shall have a previous recording of
623 the client's name, address where the therapy is to occur,

624 estimated time of return, and phone number (if available) in a
625 conspicuous record.

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

628 (4) * * * A copy of the State of Mississippi Professional
629 Massage Therapy Code of Ethics and Professional Conduct shall be
630 prominently displayed.

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

633 73-67-35. (1) To obtain a massage therapy license, an
634 applicant must submit to the board the applicant's official and
635 certified transcript(s) from the applicant's massage therapy
636 school. The transcript must verify that the applicant has
637 completed a board-approved training program of not less than six
638 hundred (600) hours of supervised in-class massage therapy
639 instruction, and at least one hundred (100) hours of student
640 clinic, with a minimum grade requirement of "C" or better in every
641 course of instruction, in the following subjects:

642 (a) Two hundred (200) hours in massage theory and
643 practicum;

644 (b) Two hundred (200) hours in science of the human
645 body;

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

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

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

650 (a) Ten (10) hours in legalities including Mississippi
651 massage law and ethics;

652 (b) Twenty (20) hours in history, benefits, indications
653 and contraindications;

654 (c) One hundred (100) hours in massage demonstration
655 and supervised practice, which must include, but is not limited
656 to, client evaluation, stroking, kneading, stretching, friction,

657 percussion, vibration, range of motion, hand held tools and
658 devices designated as t-bars or knobblies, and draping and turning;
659 and

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

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

665 (a) Twenty (20) hours in anatomy, including all body
666 systems;

667 (b) Twenty (20) hours in physiology, including all body
668 systems;

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

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

671 (e) Twenty (20) hours in pathology, including medical
672 terminology; and

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

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

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

681 (b) Eight (8) hours in cardiopulmonary resuscitation
682 (CPR) and first aid;

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

684 (d) Twenty-five (25) hours in hydrotherapy and infrared
685 heat;

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

688 (f) The remaining one hundred thirty (130) hours may
689 expand on any or all of the previous five (5) subject areas,

690 including the Americans With Disabilities Act, and/or be devoted
691 to any approach to massage therapy and wellness, such as trigger
692 points, management, communication, safety, oriental or Eastern
693 massage techniques and specialized populations.

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

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

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

720 (8) Hours credited through transfer credit shall not be
721 recognized by the board unless the following transfer standards
722 are met:

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

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

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

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

731 73-67-37. The grace period for a license to be issued shall
732 be from the effective date of this act until July 1, 2002. Those
733 meeting the minimum requirements as stated in this chapter, except
734 for obtaining a license, may continue the practice of massage
735 therapy or instruction thereof within the grace period. Massage
736 curriculums that begin before July 1, 2001, may continue with the
737 same curriculum until completion. Anyone not meeting the minimum
738 requirements as stated in this chapter shall not advertise massage
739 therapy or instruction thereof until they meet the minimum
740 requirements of this chapter.

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

743 73-67-39. Sections 73-67-1 through 73-67-37 of this act
744 shall stand repealed on July 1, 2008.

745 **SECTION 21.** This act shall take effect and be in force from
746 and after June 30, 2004.