

House Amendments to Senate Bill No. 2721

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 such as electric hand massagers used adjunctively to
91 the application of hand massage or devices designed as t-bars or
92 knobblies, and (iii) instruct self care and stress management.

93 "Manual" means by use 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) "Pre-act 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 certificate of registration.

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 registered as massage therapists, and a
190 record of the certificates of registration that have been revoked
191 or suspended;

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

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

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

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

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

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

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

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

217 (j) Revoke, suspend or deny a certificate of
218 registration in accordance with the provisions of this chapter;

219 (k) Adopt an annual budget;

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

222 (m) Adopt rules:

223 * * *

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

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

229 * * *

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

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

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

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

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

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

253 (s) The board shall set up guidelines for the operation
254 of schools of massage therapy, and it is charged with that
255 regulation in this state. The board may prescribe reasonable
256 rules and regulations governing schools of massage therapy for the
257 guidance of persons registered under this chapter in the operation

258 of schools of massage therapy and in the practice of massage
259 therapy. When the board has reasons to believe that any of the
260 provisions of this chapter or the rules and regulations of the
261 board have been violated, either upon receipt of a written
262 complaint alleging those violations or upon the board's own
263 initiative, the board or any of its authorized agents shall
264 investigate same and may enter upon the premises of a school of
265 massage therapy at any time during regular business hours of that
266 school to conduct the investigation. The investigation may
267 include, but not be limited to, conducting oral interviews with
268 the complaining party, school or school owner(s) and/or students
269 of the school, and reviewing records of the school pertinent to
270 the complaint and related to an area subject to the authority of
271 the board.

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

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

279 73-67-17. The board may adopt rules:

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

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

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

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

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

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

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

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

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

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

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

322 (4) Where the board proposes to refuse to grant or renew a
323 certificate of registration or proposes to revoke or suspend a
324 certificate of registration, an opportunity for a hearing shall be
325 accorded. The board may designate any competent person(s) to

326 preside at the hearing. The board shall promulgate rules for the
327 conduct of hearings and issuance of orders.

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

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

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

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

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

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

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

364 73-67-21. (1) It shall be the responsibility of a massage
365 therapy establishment to verify the current registration of any
366 and all persons practicing massage therapy at the location of or
367 on behalf of the establishment. Failure to comply is subject to
368 penalty assessed by the board of not less than Five Hundred
369 Dollars (\$500.00) and not more than One Thousand Dollars
370 (\$1,000.00) per offense.

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

382 (3) The following are requirements for registration:

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

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

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

390 (d) An applicant must supply proof of current
391 certification in cardiopulmonary resuscitation (CPR) and first aid
392 of at least eight (8) hours of training, including practical
393 testing, and supply documentation of familiarity with the
394 Americans With Disabilities Act.

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

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

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

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

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

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

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

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

427 (d) All grandfathering exemption allowances as stated
428 in this section shall end on July 1, 2002, for nonstudents, and on
429 June 1, 2003, for students who were enrolled in a part-time

430 massage school curriculum on July 1, 2001. Individuals may apply
431 for a certificate of registration until the grandfathering
432 exemption ends, but may not practice massage beyond the allowed
433 grace period as provided for in Section 73-67-37 unless a valid
434 massage therapy certificate of registration or provisional permit
435 is obtained. All other pre-act practitioners and anyone not
436 practicing massage therapy before January 1, 2001, must take and
437 pass the registration examination and follow the requirements in
438 this chapter to practice massage therapy for compensation in
439 Mississippi.

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

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

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

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

454 (3) Eligibility requirements to take the NCETMB are set by
455 the National Certification Board for Therapeutic Massage and
456 Bodywork as stated in the NCETMB candidate handbook. Eligibility
457 to take the ABTE shall be determined by the National Certification
458 Commission for Acupuncture and Oriental Medicine as stated in the
459 NCCAOM candidate handbook.

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

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

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

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

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

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

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

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

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

497 73-67-27. (1) The board may refuse to issue or renew or may
498 deny, suspend or revoke any certificate of registration held or

499 applied for under this chapter upon finding that the holder of a
500 certificate of registration or applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

600 73-67-31. (1) All registered massage therapists shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

636 73-67-33. (1) Lavatories or wash basins provided with an
637 adequate supply of both hot and cold running water should be

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

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

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

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

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

651 73-67-35. (1) To obtain a massage therapy certificate of
652 registration, an applicant must submit to the board the
653 applicant's official and certified transcript(s) from the
654 applicant's massage therapy school. The transcript must verify
655 that the applicant has completed a board-approved training program
656 of not less than six hundred (600) hours of supervised in-class
657 massage therapy instruction, and at least one hundred (100) hours
658 of student clinic, with a minimum grade requirement of "C" or
659 better in every course of instruction, in the following subjects:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

689 (e) Twenty (20) hours in pathology, including medical
690 terminology; and

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

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

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

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

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

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

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

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

712 (5) "Student clinic" must include at least thirty (30)
713 practical hands-on one-hour massage therapy sessions, outside of
714 class, to be evaluated on documents filed and kept on record at
715 the school for a minimum of six (6) months. These evaluations are
716 to be completed by the clients of the massage therapy sessions and
717 shall include the client's name, address, reason for session,
718 indications and contraindications, date and signature. Each
719 completed session shall constitute two (2) hours of student
720 clinic. The hands-on session may be supervised or nonsupervised.
721 The remaining forty (40) hours shall be acquired in an actual
722 clinical massage therapy establishment, student clinic or
723 location(s) approved by the school. These remaining forty (40)
724 hours shall be supervised, either directly or indirectly, and
725 shall also be documented.

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

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

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

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

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

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

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

749 73-67-37. The grace period for certificates of registration
750 to be issued shall be from the effective date of this act until
751 July 1, 2002. Those meeting the minimum requirements as stated in
752 this chapter, except for obtaining a certificate of registration,
753 may continue the practice of massage therapy or instruction
754 thereof within the grace period. Massage curriculums that begin
755 before July 1, 2001, may continue with the same curriculum until
756 completion. Anyone not meeting the minimum requirements as stated
757 in this chapter shall not advertise massage therapy or instruction
758 thereof until they meet the minimum requirements of this chapter.

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

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

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

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

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

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

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

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

783 (e) Correspondence courses;

784 (f) Nonprofit private schools offering academic credits
785 at primary or secondary levels, or conducting classes for
786 exceptional education as defined by regulations of the State
787 Department of Education;

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

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

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

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

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

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

HR03\SB2721A.J

Don Richardson
Clerk of the House of Representatives