

# Legislative Analysis



## LICENSE MASSAGE THERAPISTS

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 5651

**Sponsor: Rep. Paul Condino**

**Committee: Regulatory Reform**

**Complete to 3-3-08**

## A SUMMARY OF HOUSE BILL 5651 AS INTRODUCED 1-22-08

The bill would add Part 179A (entitled "Massage Therapy") to the Public Health Code. The bill would establish license requirements, set license fees, create the Michigan Board of Massage Therapy, require continuing education courses, and provide exemptions from regulation under the bill. Under the bill, the practice of massage therapy would not include medical diagnosis; high-velocity, low amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines. Specifically, the bill would do the following:

Michigan Board of Massage Therapy. The bill would create a nine-member board appointed by the Governor, with five massage therapists and four public members. Members would serve four-year terms. (Initial terms would be staggered.) The board would have to promulgate rules to adopt a code of professional ethics. Neither the board nor the Department of Community Health could restrict, by rule or otherwise, the right of a licensee to participate in and become a member of any nationally recognized trade or professional association.

Title Protection. Only persons licensed under the bill as massage therapists could use the titles reserved for licensed practitioners. However, the bill would not prevent the use of a name, title, or initials that are registered or otherwise protected under law and used by a person certified or otherwise approved by a private organization.

Licensure. Only a person licensed under the bill could engage in the practice of massage therapy. However, a license would not be needed by a person engaging in the use of touch, words, or directed movement to deepen awareness of patterns or movement in the body so long as those services are not designated or implied to be massage or massage therapy. These practices include the Feldenkrais Method or the Trager Approach. (These terms are defined in the bill.)

The bill would also exempt the affectation of the human energy system or acupoints or QI meridians of the human body while engaged within the scope of practice of a profession with established standards and ethics and as long as those services are not designated or implied to be massage or massage therapy. These practices include Polarity or Polarity Therapy, Polarity Therapy Bodywork, Reflexology, Rolf Structural Integration, Reiki, and Shiatsu.

The bill would also exempt (1) a person licensed under the Public Health Code or other law if the activities of a massage therapist are also within the person's scope of practice, and the person does not use a title restricted to licensed massage therapists; (2) the practice of massage therapy that is an integral part of a program of study in a state-licensed school so long as the person engaged in the practice is identified as a student and provides services only under the supervision of a licensed massage therapist; and (3) self-care by a patient or uncompensated care by a friend or family member not claiming to be a massage therapist.

Three-year License Cycle. Licenses would be valid for a three-year cycle, but there would be an annual license fee of \$75. In addition, the application processing fee would be \$20 per year.

License Qualifications. To qualify for licensure, a person would need a high school diploma or a board-accepted equivalent; be of good moral character; be at least 18 years of age; successfully pass an examination and successfully completed either (1) a supervised curriculum in a school licensed under Public Act 148 of 1943 that has not less than 500 contact hours of instruction in the presence of a faculty member or (2) at least 500 hours of course and clinical massage education in a substantially equivalent program in another state, country, jurisdiction, territory, or province that, on a case-by-case review is found by the board to be sufficient.

The department would issue a renewable license to a qualified applicant who is currently a massage therapist in another state, country, jurisdiction, territory, or providence that requires standards for licensure that are substantially equal to the requirements for licensure, as determined by the board.

Examinations. Applicants would have to pass an examination before being issued a license. The Michigan Board of Massage Therapy could develop its own examination or could adopt an examination developed by an outside entity. The bill provides guidelines for the rules.

Grandfather Clause. Until two years after the bill's effective date, the board could issue a renewable license to a person who was at least 18 years of age, completed high school or an approved equivalent, and who was of good moral character, if he or she had fulfilled one of the following requirements:

- \*For at least one year, been an active member, as a massage therapist, of a national professional massage therapy association recognized by and acceptable to the board that had been established prior to 2000, if the association offered professional liability insurance and had an established code of professional ethics.

- \*Practiced massage therapy for an average of at least 10 hours per week for 10 years or more, as established by affidavit of the applicant.

- \*Practiced massage therapy an average of 10 hours per week for at least three years before the bill's effective date, as established by affidavit of the applicant, and had

successfully completed at least 300 hours of formal training in massage therapy that was acceptable to the board, as established by evidence from the school or schools attended.

\*Passed the national certification exam promulgated by the National Certification Board for Therapeutic Massage and Bodywork.

Continuing Education for License Renewal. In order to renew a license, a licensee would have to furnish evidence of completing at least six hours, or an acceptable equivalent, of continuing education for each year of the license cycle. Courses would have to be approved by the board and would have to include subjects related to the practice of massage therapy.

Miscellaneous Provisions. A licensee would have to make a written referral of a client to an appropriate health professional if the client's physical or mental condition appeared to constitute a contraindication for massage therapy.

Beginning on the bill's effective date, a local unit of government could not establish or maintain licensing requirements for a massage therapist licensed under the bill.

The bill would not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by a licensed massage therapist.

MCL 333.16334, et al.

## **FISCAL IMPACT:**

House Bill 5651, as introduced, creates state Department of Community Health costs to develop and administer the licensing, regulation, and complaint review for the licensure of the profession of massage therapist, and to support a state board. Annual licensing fees of \$75 and initial processing fees of \$20 per individual are established to support the state licensing system costs for this profession. The costs and revenue are dependent upon the number of persons who seek licensure. Massage therapy organizations estimate approximately 3,000 - 4,000 massage therapists practice in Michigan who may meet the licensing requirements of the bill. Average annual program revenue from 3,000 licensees would be approximately \$245,000. This revenue would support up to 2.0 new FTE positions and administrative costs for the Department of Community Health to carry out these responsibilities.

Licensed massage therapists will be subject to discipline under Part 161 of the Public Health Code for licensure violations or unlawful practice without licensure, which may include fines. Approximately 25 to 30 schools of massage therapy are available in Michigan.

Legislative Analyst: E. Best  
Fiscal Analyst: Susan Frey

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