

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2430



INTRODUCED BY REPRESENTATIVE ALFRED VARGAS

EXPLANATORY NOTE

Massage therapy has a significant impact on a person's health and well-being. The public has a right to expect that a massage therapist has the qualifications needed to practice effectively and safely. Thus, legal recognition of the practice of massage therapy and clearly-stated requirements to practice are essential to promote the profession and protect the health, safety and welfare of the general public.

Legal recognition of massage therapy in the form of licensure creates standards of minimum competency. Competency is measured and enforced through formal education, training, and examination requirements. It ensures that individuals have met the eligibility requirements needed to practice massage therapy and that they are qualified to represent themselves to the public as state licensed massage therapists. It also enables the state or jurisdiction to discipline a massage therapist, because a government does not have the ability to regulate a profession that is not formally recognized in statute.

This bill seeks to standardize the qualifications of massage therapists, not just to promote fair competition and salaries for massage therapists but also for the interest of public health, safety and welfare. The Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them (Art.11 Sec.15). It also aims to eliminate prostitution that uses massage parlors as front of their illicit trades.

In view of the foregoing, passage of this bill is earnestly sought.


REP. ALFRED VARGAS
Fifth District, Quezon City

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AN ACT
REGULATING THE MASSAGE PRACTICE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. - This Act shall be known as the "*Massage Practice Act of 2019*".

SEC. 2. Definitions. - As used in this Act, the term:

- A. "Apprentice" means a person approved by the Board to study massage under the instruction of a licensed massage therapist;
- B. "Board" means the Board of Massage Therapy;
- C. "Board-approved massage school" means a facility which meets minimum standards for training and curriculum as determined by rule of the Board and which is licensed by the Technical Education and Skills Development Authority;
- D. "Colonic irrigation" means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water;
- E. "DOH" means the Department of Health;
- F. "Establishment" means a site or premises, or portion thereof, wherein a massage therapist practices massage;
- G. "Licensure" means the procedure by which a person, hereinafter referred to as a "practitioner," applies to the Board for approval to practice massage or to operate an establishment;
- H. "Massage" means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation;

I. "Massage therapist" means a person licensed as required by this Act, who administers massage for compensation;

J. "PRC" means the Professional Regulation Commission; and

K. "Secretary" means the Secretary of the Department of Health;

SEC. 3. Exemptions. —

A. Athletic trainers employed by or on behalf of a professional athletic team shall be exempt from the provisions of this Act;

B. Licensed Physical and Occupational Therapists shall be exempt from the provisions of this Act;

C. An exemption granted is effective to the extent that an exempted person's practice or profession overlaps with the practice of massage.

SEC. 4. Board of Massage Therapy. —

A. The Board of Massage Therapy is created within the DOH and shall be regulated by the PRC. The Board shall consist of seven members, who shall be appointed by the Secretary and whose function shall be to carry out the provisions of this Act;

B. Five members of the Board shall be licensed massage therapists and shall have been engaged in the practice of massage for not less than five consecutive years prior to the date of appointment to the Board. The Secretary shall appoint each member for a term of four years. Two members of the Board shall be laypersons. Each Board member shall be a high school graduate or shall have received a graduate equivalency diploma. Each Board member shall be a Filipino citizen and a resident of the country for not less than five years. The appointments will be subject to confirmation by the Senate;

C. The Secretary may at any time **fill** vacancies on the Board for the remainder of unexpired terms. Each member of the Board shall holdover after the expiration of her or his term until her or his successor has been duly appointed and qualified. No Board member shall serve more than two terms, whether full or partial;

D. The Board shall, in the month of January, elect from its number a chair and a vice chair;

E. The Board shall hold such meetings during the year as deemed necessary, one of which shall be the annual meeting. The chair of the Board shall have the authority to call other meetings at her or his discretion. A quorum of the Board shall consist of not less than four members;

F. The Board has authority to adopt rules to implement the provisions of this Act.

SEC. 5. Accountability of Board Members. - Each Board member shall be held accountable to the Secretary for the proper performance of all duties and obligations of such Board member's office. The Secretary shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the Board or its individual members and shall take appropriate action thereon, which may include removal of any Board member for malfeasance, misfeasance, neglect of duty, commission of a felony, incompetence, or permanent inability to perform official duties.

SEC. 6. Investigative Services. - The DOH, in coordination with the PRC, shall provide all investigative services required in carrying out the provisions of this Act.

SEC. 7. Massage Therapists: Qualifications, Licensure and Endorsement.

A. Any person is qualified for licensure as a massage therapist under this Act who:

1. is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;
2. has completed a course of study at a Board-approved massage school or has completed an apprenticeship program that meets standards adopted by the Board; and
3. has received a passing grade on an examination administered by the DOH.

B. The PRC in Coordination with the DOH shall provide for the procedure, qualifications and documentary requirements for the application of a massage therapy license;

C. Upon an applicant's passing of the examination and paying of the initial licensure fee, the DOH shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage;

D. The Board shall adopt the following rules:

1. establishing a minimum training program for apprentices
2. providing for educational standards, examination, and certification for the practice of colonic irrigation by massage therapist

SEC. 8. License Renewal. - The Board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed classroom hours per biennium. The Board shall, by rule, establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the Board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

SEC. 9. *Examinations.* -

A. The Board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The Board shall ensure that examinations adequately measure an applicant's competency. Professional testing services may be utilized to formulate the examinations.

B. The Board shall ensure that examinations comply with applicable laws and jurisprudence on labor and employment.

C. The DOH shall, in accordance with rules established by the Board, examine persons who file applications for licensure under this Act in all matters pertaining to the practice of massage. A written examination shall be offered at least once yearly and at such other times as the DOH shall deem necessary.

D. The Board shall adopt rules providing for re-examination of applicants who have failed the examination.

E. All licensing examinations shall be conducted in such manner that the applicant shall be known to the DOH by number until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the Secretary and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

SEC. 10. *Massage Establishments, Requisites, Licensure, Inspection.* —

A. No massage establishment shall be allowed to operate without a license granted by the DOH in accordance with rules adopted by the Board;

B. The Board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process;

C. Any person, firm, or corporation desiring to operate a massage establishment shall submit to the DOH an application, using forms provided by the DOH, accompanied by any information requested by the DOH and an application fee;

D. Upon receiving the application, the DOH may cause an investigation to be made of the proposed massage establishment;

E. If, based upon the application and any necessary investigation, the DOH determines that the proposed establishment fails to meet the standards adopted by the Board under Paragraph B of this Section, the DOH shall deny the application for license. Such denial shall be in writing and shall list the reasons for denial. Upon correction of any deficiencies, an applicant previously denied permission to operate a massage establishment may reapply for licensure;

F. If, based upon the application and any necessary investigation, the DOH determines

that the proposed massage establishment may reasonably be expected to meet the standards adopted by the DOH under Paragraph B of this Section, the DOH shall grant the license under such restrictions as it shall deem proper, as soon as the original licensing fee is paid;

G. Once issued, no license for operation of a massage establishment may be transferred from one owner to another.

H. A license may be transferred from one location to another only after inspection and approval by the Board and receipt of an application and inspection fee set by the rule of the Board, not to exceed P1,500.

I. A license may be transferred from one business name to another after approval by the Board and receipt of an application fee set by rule of the Board, not to exceed P1,500.

J. Renewal of license registration for massage establishments shall be accomplished

pursuant to rules adopted by the Board. The Board is further authorized to adopt rules governing delinquent renewal of licenses and may impose penalty fees for delinquent renewal.

K. The Board is authorized to adopt rules governing the periodic inspection of massage establishments licensed under this Act.

SEC. 11. *Fees, Disposition.* —

A. The Board shall set fees according to the following schedule:

1. Massage therapist application and examination fee: not to exceed P2,500;
2. Massage therapist initial licensure fee: not to exceed P1,500;
3. Establishment application fee: not to exceed P2,000;
4. Establishment licensure fee: not to exceed P1,500;
5. Biennial establishment renewal fee: not to exceed P1,500;
6. Biennial massage therapist licensure renewal fee: not to exceed P2,000;
7. Massage therapist re-examination fee: not to exceed P2,500;
8. Fee for apprentice: not to exceed P1,000;
9. Colonies examination fee: not to exceed P1,000;
10. Colonies re-examination fee: not to exceed P1,000;
11. Application and reactivation for inactive status of a massage therapist license fee: not to exceed P2,500;
12. Renewal fee for inactive status: not to exceed P2,500;

B. The DOH shall impose a late fee not to exceed P1,500 on a delinquent renewal of a massage establishment license;

- C. The Board may establish by rule an application fee not to exceed P1,000 for anyone seeking approval to provide continuing education courses and may provide by rule for a fee not to exceed P50 for renewal of providership;
- D. The DOH is authorized to charge the cost of any original license or permit, as set forth in this Act, for the issuance of any duplicate licenses or permits requested by any massage therapist or massage establishment;
- E. All moneys collected by the DOH from fees authorized by this Act shall be paid into the National Treasury.

SEC. 12. *Grounds/or disciplinary action by the Board.-*

A. The following acts constitute grounds for denial of a license or disciplinary action:

1. Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation;
2. Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage;
3. False, deceptive, or misleading advertising;
4. Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this Act or to a rule of the DOH or the Board;
5. Making deceptive, untrue, or fraudulent representations in the practice of massage;
6. Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

In enforcing this paragraph, the DOH shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the DOH. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegation against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients;

7. Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances;
8. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform;
9. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform;
10. Violating a lawful order of the Board or DOH previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the DOH;
11. Refusing to permit the DOH to inspect the business premises of the licensee during regular business hours.
12. Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition;
13. Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the Board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show;

B. The Board may enter an order denying licensure or imposing any of the penalties in this Section against any applicant for licensure or licensee who is found guilty of violating any provision of Paragraph A of this Section;

C. The Board shall have the power to revoke or suspend the license of a massage establishment licensed under this Act, or to deny subsequent licensure of such an establishment, in either of the following cases:

1. Upon proof that a license has been obtained by fraud or misrepresentation;
2. Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetence, or misconduct in the operation of the establishment so licensed.

SEC. 13. Advertisement. — Each massage therapist or massage establishment licensed under the provisions of this Act shall include the number of the license in any advertisement of massage services appearing in any newspaper, airwave transmission, telephone directory, or other advertising medium. Pending licensure of a new massage establishment pursuant to the provisions of Section 10(6), the license number of a licensed massage therapist who is an owner or principal officer of the establishment may be used in lieu of the license number for the establishment.

SEC. 14. *Penalties.*-

A. It is unlawful for any person to:

1. Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this Act or unless otherwise specifically exempted from licensure under this Act;
2. Operate any massage establishment unless it has been duly licensed as provided herein, except that nothing herein shall be construed to prevent the teaching of massage at a Board approved massage school;
3. Permit an employed person to practice massage unless duly licensed as provided herein;
4. Present as his or her own the license of another;
5. Allow the use of his or her license by an unlicensed person;
6. Give false or forged evidence to the DOH in obtaining any license provided for herein;
7. Falsely impersonate any other license holder of like or different name; 8. Use or attempt to use a license that has been revoked;
9. Otherwise violate any of the provisions of this Act;

B. Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in the pertinent provisions of the Penal Code.

SEC. 15. *Sexual misconduct in the practice of massage therapy.* - The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

SEC. 16. *Civil proceedings.* - As cumulative to any other remedy or criminal prosecution, the DOH may file a proceeding in the name of the People of the Philippines seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this Act or the lawful rules or orders of the DOH.

SEC. 17. *Power of province, city, or municipality to regulate massage.* — A province, city or municipality, within its jurisdiction, may regulate persons and establishments licensed under this Act. Any province, city or municipality shall have the authority to enact any regulation of persons or establishments not licensed pursuant to this Act in accordance with applicable laws and jurisprudence.

SEC. 18. *Appropriations.* - The amount necessary to carry out the provisions of this Act shall be included in the budget of concerned government agencies in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 19. *Separability Clause.* - If any provision of this Act is held invalid or unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 20. *Repealing Clause.* - All laws, decrees, orders, and issuances, or portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

SEC. 21. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,