

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 58

By: Senator Irvin
By: Representative Wardlaw

For An Act To Be Entitled

AN ACT TO CREATE A STUDENT AND APPRENTICE LEVEL OF
LICENSING IN THE MASSAGE THERAPY PROFESSION; AND FOR
OTHER PURPOSES.

Subtitle

TO CREATE A STUDENT AND APPRENTICE LEVEL
OF LICENSING IN THE MASSAGE THERAPY
PROFESSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-86-102, concerning the definitions regarding the practice of massage therapy, is amended to add additional subdivisions to read as follows:

(12) "Massage therapy apprentice" means a person who is enrolled in a massage therapy apprenticeship program;

(13) "Massage therapy apprenticeship program" means a program that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and is approved by the United States Office of Apprenticeship;

(14) "Massage therapy learning permit" means a permit issued by the Department of Health before enrollment in a massage therapy apprenticeship program or in a massage therapy school that is valid for no longer than six (6) months after completion of the apprenticeship or graduation from the massage therapy school; and

(15) "Massage therapy student" means a person who is enrolled in



a licensed massage therapy school or postsecondary massage therapy school.

SECTION 2. Arkansas Code § 17-86-104 is amended to read as follows:
17-86-104. Criminal background checks.

An applicant applying for enrollment in a massage therapy school, postsecondary massage therapy school, or massage therapy apprenticeship program or applying as a new massage therapy licensee, an individual applying for a new massage therapy school license, or a licensee applying for an upgrade issued by the Department of Health shall apply to the Identification Bureau of the ~~Department~~ Division of Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 3. Arkansas Code § 17-86-203(d)(1), concerning the powers and duties of the State Board of Health and the Department of Health to regulate the practice of massage therapy, is amended to read as follows:

(d)(1) The department may require each original applicant enrolling in a massage therapy school, postsecondary massage therapy school, or massage therapy apprenticeship program, or applying as a new massage therapy licensee to practice in the State of Arkansas and each upgrade applicant for a license issued by the ~~Department of Health~~ department to apply to the Identification Bureau of the Division of Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 4. Arkansas Code § 17-86-301(a) and (b), concerning registration to practice massage therapy, is amended to read as follows:

(a) It shall be unlawful:

(1)~~(A)~~ For any person who does not hold a valid license to use the following titles: massage therapist, massage practitioner, myotherapist, massotherapist, massage technologist, masseur, masseuse, therapy technologist, master massage therapist, massage therapy instructor, or any derivation of those titles or to advertise such titles; ~~or~~

~~(B)~~(2) For any person who does not hold the applicable license issued by the Department of Health to engage professionally for

payment, barter, donation, or exchange in the practice or instruction of massage therapy as defined in this chapter;

~~(2)~~(3) For any person to operate or conduct any massage therapy clinic or massage therapy school which does not conform to the sanitary rules contained in § 17-86-302, in state law, in local ordinances, or in those rules which may be adopted by the State Board of Health;

~~(3)~~(4) To employ any person to practice or instruct under this chapter who does not hold a valid license issued by the department;

~~(4)~~(5) For any person to operate a massage therapy school or clinic without its first being registered under the provisions of this chapter as a licensed massage therapy school or registered clinic; ~~or~~

~~(5)~~(6) For any massage therapy school or postsecondary massage therapy school to enroll any person in the massage therapy school or postsecondary school who does not hold a massage therapy learning permit issued by the department;

(7) For any massage therapy apprenticeship program to enroll any person in the massage therapy apprenticeship program who does not hold a massage therapy learning permit issued by the department; or

(8)(A) For the department or other individual or entity to incorporate privileges or certification requirements of any private organization, private professional association, or private accrediting agency within Arkansas massage laws or its rules.

(B) However, the department may adopt as its licensure exam an exam drafted and administered by a private organization, private professional association, or private accreditation agency.

(b) Exemptions:

(1) Persons authorized by the laws of this state to practice medicine, osteopathy, podiatry, or physical therapy, and licensed physicians' assistants, licensed nurses, licensed physical therapy assistants, licensed acupuncturists, licensed midwives, and chiropractors are exempt from this chapter in so far as massage therapy practices are offered or instructed within the scope and under the provisions of licensure;

(2) Persons licensed as a massage therapy student who practice under the direct supervision of a massage therapy instructor at a licensed massage therapy school or licensed postsecondary massage therapy school for a period not to exceed six (6) months from the date of graduation from the

massage therapy school;

(3) Persons licensed as a massage therapy apprentice who practice under the direct supervision of a massage therapy instructor who is registered or approved as a sponsor as part of the massage therapy apprenticeship program approval by the United States Office of Apprenticeship, for a period not to exceed six (6) months from the date of completion of the massage therapy apprenticeship program;

(4) Persons authorized by the department to present and instruct department-approved school curriculum or continuing education programs, or both, may present and instruct such department-approved curriculum and programs for payment and in the presentation and instruction may utilize practices defined in, but without being licensed or registered under, the provisions of this chapter; and

~~(3)~~(5) The practice of massage therapy that is incidental to a program of study by students enrolled in a licensed massage therapy school approved by the department, and under direct supervision of a licensee employed as an instructor at the school, is exempt from § 17-86-311(a)(10).

SECTION 5. Arkansas Code § 17-86-303 is amended to read as follows:
17-86-303. Massage therapist.

~~(a) In order to be licensed as a massage therapist, the person seeking licensure shall:~~

~~(1) Furnish to the Department of Health satisfactory proof that he or she is eighteen (18) years of age or older;~~

~~(2) Make oath that he or she has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony listed under § 17-3-102 or constitute the offense of prostitution, either in this state or another state, and submit a signed authorization to investigate and have information released to the department;~~

~~(3) Present the following issued in the same name as the applicant or licensee:~~

~~(A) A valid photo identification or driver's license, or both; and~~

~~(B) A Social Security card;~~

~~(4)(A) Present a high school diploma, high school equivalency diploma approved by the Adult Education Section, or college transcript and~~

~~credentials issued by a massage therapy school accepted by the department or a like institution with no less than five hundred (500) hours of in-classroom instruction.~~

~~(B) An applicant shall not submit his or her transcript directly to the department.~~

~~(C) An applicant shall request that the massage therapy school submit the transcript directly to the department.~~

~~(D)(i) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why the transcript may not be obtained.~~

~~(ii) Other documentation of credentials may be submitted and accepted for licensure at the discretion of the department;~~

~~(5) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department; and~~

~~(6) Pay the specified fees, which shall accompany a completed notarized application to the department.~~

(a) For an applicant seeking enrollment in a massage therapy school or massage therapy apprenticeship program on or after January 1, 2024, in order to be issued a massage therapy learning permit, the applicant seeking enrollment in a massage therapy school or massage therapy apprenticeship program shall:

(1) Furnish to the Department of Health satisfactory proof that the applicant is eighteen (18) years of age or older;

(2) Make oath that the applicant has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony listed under § 17-3-102 or constitute the offense of prostitution, either in this state or another state, and submit a signed authorization to investigate and have information released to the department;

(3) Provide a state and federal criminal background check to the department as provided in § 17-86-104;

(4) Present the following issued in the same name as the applicant or licensee:

(A) A valid photo identification card or driver's license, or both; and

(B) A Social Security card;

(5) Request the massage therapy school or massage therapy apprenticeship program in which the applicant is seeking to enroll or has enrolled to send a copy of the enrollment contract, or equivalent confirmation of enrollment to the department; and

(6) Pay the specified fees as provided in subsection (d) of this section, which shall accompany a completed notarized application to the department.

(b) For an applicant who was issued a massage therapy learning permit on or after January 1, 2024, an applicant holding a massage therapy learning permit under subsection (a) of this section, upon graduating from a massage therapy school or completing a massage therapy apprenticeship program, shall:

(1) Request the massage therapy school or massage therapy apprenticeship program submit directly to the department either:

(A) A transcript and credentials issued by a massage therapy school; or

(B) A certificate of completion issued by a massage therapy apprenticeship program;

(2) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department;

(3) Make oath that the applicant has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony listed under § 17-3-102 or constitute the offense of prostitution, either in this state or another state, since the date the massage therapy learning permit was issued, and submit a signed authorization to investigate and have information released to the department;

(4) Submit a completed application provided by the department for issuance of licensure; and

(5) Pay the specified fees as provided in subsection (d) of this section.

(c) In order to be licensed as a massage therapist, the person seeking licensure under § 17-86-308 or subsection (g) of this section or through similar reciprocity provisions as provided by the rules established by the department shall:

(1) Furnish to the department satisfactory proof that the applicant is eighteen (18) years of age or older;

(2) Make oath that the applicant has not been convicted of,

found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony listed under § 17-3-102 or constitute the offense of prostitution, either in this state or another state, and submit a signed authorization to investigate and have information released to the department;

(3) Provide a state and federal criminal background check to the department as provided in § 17-86-104;

(4) Present the following issued in the same name as the applicant or licensee:

(A) A valid photo identification card or driver’s license, or both; and

(B) A Social Security card;

(5)(A) Present a high school diploma, high school equivalency diploma approved by the Adult Education Section, or college transcript and credentials issued by a massage therapy school accepted by the department or an equivalent institution with no less than five hundred (500) hours of in-classroom instruction.

(B) An applicant shall not submit his or her transcript directly to the department.

(C) An applicant shall request that the massage therapy school submit the transcript directly to the department.

(D)(i) If the applicant’s transcript is not obtainable from the original school, the applicant shall submit a statement to explain why the transcript can not be obtained.

(ii) Other documentation of credentials may be submitted and accepted for licensure at the discretion of the department;

(6) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department; and

(7) Pay the specified fees as provided in subsection (d) of this section, which shall accompany a completed notarized application to the department.

~~(b)~~(d) Fees are as follows:

(1) ~~Application~~ Massage therapy learning permit application fee \$75.00 Nonrefundable under subsection (a) of this section

(2) Reciprocity license application fee.....75.00
Nonrefundable under subsection (c) of this section

- ~~(2)~~(3) Original license fee 80.00 under subsection (b) of this section or by reciprocity under subsection (c) of this section
- ~~(3)~~(4) Biennial renewal 80.00
- ~~(4)~~(5) Examination fee or reexamination fee 25.00
- ~~(5)~~(6) Duplicate license fee 10.00
- ~~(6)~~(7) Pocket card fee not to exceed ten dollars (\$10.00).

~~(e)~~(e) A person shall not practice massage therapy unless he or she holds a valid massage therapy learning permit by the department or until his or her official license has been received from the department.

~~(d)~~(f) A person who attempts to procure or does procure a license in violation of this section shall be subject to the penalties provided for in § 17-86-103.

(g) A person who was enrolled in a massage therapy school, postsecondary massage therapy school, or massage therapy apprenticeship program as of January 1, 2024, or has completed or graduated from a massage therapy school, postsecondary massage therapy school, or massage therapy apprenticeship program before January 1, 2024, may seek licensure as provided in subsection (c) of this section.

APPROVED: 2/9/23