

28 (b) has not been declared emancipated by a court of law.

29 [~~(5)~~] (6) "Practice of massage therapy" means:

30 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
31 for the purpose of devising a treatment plan to promote homeostasis;

32 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for the
33 therapeutic purpose of:

34 (i) promoting the health and well-being of a client;

35 (ii) enhancing the circulation of the blood and lymph;

36 (iii) relaxing and lengthening muscles;

37 (iv) relieving pain;

38 (v) restoring metabolic balance; and

39 (vi) achieving homeostasis;

40 [~~(c)~~ the use of the hands or a mechanical or electrical apparatus;]

41 [~~(d)~~] (c) the use of rehabilitative procedures involving the soft tissue of the body;

42 [~~(e)~~] (d) range of motion or movements without spinal adjustment as set forth in Section
43 58-73-102;

44 [~~(f)~~] (e) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and
45 cabinet baths;

46 [~~(g)~~] (f) manual traction and stretching exercise;

47 [~~(h)~~] (g) correction of muscular distortion by treatment of the soft tissues of the body;

48 [~~(i)~~] (h) counseling, education, and other advisory services to reduce the incidence and
49 severity of physical disability, movement dysfunction, and pain; and

50 [~~(j)~~] (i) similar or related activities and modality techniques.

51 (6) "Soft tissue" means the muscles and related connective tissue.

52 (7) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

53 (8) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and as
54 may be further defined by division rule.

55 Section 2. Section **58-47b-501** is amended to read:

56 **58-47b-501. Unlawful conduct.**

57 (1) "Unlawful conduct" includes:

58 [~~(1)~~] (a) practicing, engaging in, or attempting to practice or engage in massage therapy

59 without holding a current license as a massage therapist or a massage apprentice under this chapter;

60 [~~(2)~~] (b) advertising or representing himself as practicing massage therapy when not
61 licensed to do so; and

62 [~~(3)~~] (c) massaging, touching, or applying any instrument or device [to the following areas
63 of the body] by a licensee in the course of practicing or engaging in massage therapy to:

64 [~~(a)~~] (i) the genitals or anus of a patron at the request or with the consent of the patron;
65 [and]

66 [~~(b)~~] (ii) the breasts of a female patron, except in cases in which the female patron states
67 to a licensee that the patron requests breast massage and signs a written consent form authorizing
68 the licensee to perform breast massage before the procedure[-]; and

69 (iii) a patron who is a minor unless the licensee secured both the verbal and written
70 consent of the minor's parent or legal guardian.

71 (2) It is an affirmative defense to Subsection (1)(c)(iii) if a licensee proves by a
72 preponderance of the evidence that, prior to any massage, touching, or application of an instrument
73 or device, the licensee reviewed, recorded, and maintained a personal identification number taken
74 from an apparently valid driver's license or other picture identification card that clearly indicated
75 that the minor was 18 years of age or older.

76 (3) Notwithstanding Section 58-47b-503, the massaging, touching, or application of an
77 instrument or device to the genitals or anus of a patron that is nonconsensual or involves a minor,
78 while constituting unlawful conduct for purposes of this section, is subject to the applicable
79 provisions and penalties in Title 76, Criminal Code.

80 Section 3. Section **58-47b-503** is amended to read:

81 **58-47b-503. Penalties.**

82 (1) Each violation of this chapter, other than a violation of Section 58-47b-501, is a class
83 B misdemeanor.

84 (2) [~~Any~~] Unless Subsection 58-47b-501(3) applies, an individual who commits an act of
85 unlawful conduct under Section 58-47b-501 is guilty of a class A misdemeanor.

Legislative Review Note

as of 2-1-99 1:34 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel