

Evan J. Vickers proposes the following substitute bill:

Massage Therapy Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies licensing requirements for performing massage therapy, including creating a registration requirement for massage therapy establishments.

Highlighted Provisions:

This bill:

- defines terms;
- amends the licensure requirements for massage therapy;
- specifies requirements for a criminal background check for an individual performing massage therapy;
- specifies requirements for a massage establishment to register;
- provides the circumstances under which an individual must perform massage therapy in a registered massage establishment;
- provides for the expiration and renewal of licensure;
- specifies identification, signage, and disclosure requirements;
- creates standards for unlawful and unprofessional conduct by a massage establishment;
- requires penalties for a massage establishment that engages in unlawful or unprofessional conduct;
- specifies when a massage establishment can be denied registration;
- specifies requirements for a criminal background check for massage establishment owners;
- creates a safe harbor provision for a licensed individual renting or leasing to a sole practitioner;
- allows the Division of Professional Licensing to inspect a massage establishment;
- requires standards for the inspection of a registered massage establishment;
- provides exemptions from licensure requirements;

- schedules the repeal of provisions related to a massage assistant and massage assistant-in-training;
- includes a coordination clause to coordinate enactment of provisions with S.B. 44, Professional Licensure Amendments; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 58-1-301.5**, as last amended by Laws of Utah 2024, Chapter 420
- 58-47b-102**, as last amended by Laws of Utah 2024, Chapter 507
- 58-47b-301**, as last amended by Laws of Utah 2023, Chapter 225
- 58-47b-302.1**, as enacted by Laws of Utah 2023, Chapter 225
- 58-47b-303**, as last amended by Laws of Utah 2023, Chapter 225
- 58-47b-304**, as last amended by Laws of Utah 2024, Chapter 455
- 58-47b-305**, as last amended by Laws of Utah 2023, Chapter 225
- 58-47b-306**, as enacted by Laws of Utah 2023, Chapter 225
- 58-47b-401**, as enacted by Laws of Utah 1996, Chapter 76
- 58-47b-501**, as last amended by Laws of Utah 2023, Chapter 225
- 58-47b-502**, as last amended by Laws of Utah 2023, Chapter 225
- 58-47b-503**, as last amended by Laws of Utah 2000, Chapter 309
- 63I-1-258**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

- 58-47b-301.1**, Utah Code Annotated 1953
- 58-47b-302.2**, Utah Code Annotated 1953
- 58-47b-303.1**, Utah Code Annotated 1953
- 58-47b-304.1**, Utah Code Annotated 1953
- 58-47b-306.1**, Utah Code Annotated 1953
- 58-47b-401.1**, Utah Code Annotated 1953
- 58-47b-501.1**, Utah Code Annotated 1953
- 58-47b-502.1**, Utah Code Annotated 1953

63 **58-47b-503.1**, Utah Code Annotated 1953

64 **58-47b-504**, Utah Code Annotated 1953

65 **58-47b-601**, Utah Code Annotated 1953

66 REPEALS AND REENACTS:

67 **58-47b-302**, as last amended by Laws of Utah 2024, Chapter 137

68 **Utah Code Sections affected by Coordination Clause:**

69 **58-1-301.5**, as last amended by Laws of Utah 2024, Chapter 420

70 **58-47b-302**, as last amended by Laws of Utah 2024, Chapter 137

71 **58-47b-302.1**, as enacted by Laws of Utah 2023, Chapter 225

72 **58-47b-302.2**, Utah Code Annotated 1953

74 *Be it enacted by the Legislature of the state of Utah:*

75 *The following section is affected by a coordination clause at the end of this bill.*

76 Section 1. Section **58-1-301.5** is amended to read:

77 **58-1-301.5 . Division access to Bureau of Criminal Identification records.**

78 (1) The division shall have direct access to local files maintained by the Bureau of Criminal
79 Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for
80 background screening of individuals who are applying for licensure or certification, or
81 with respect to a license or certification, renewal, reinstatement, or relicensure or
82 recertification, as required in:

83 (a) Sections 58-17b-306 and 58-17b-307;

84 (b) Sections 58-24b-302 and 58-24b-302.1;

85 (c) Section 58-31b-302;

86 (d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy
87 Practice Act;

88 (e) Section 58-44a-302.1;

89 (f) Sections 58-47b-302[~~and 58-47b-302.1~~] and 58-47b-302.2;

90 (g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm
91 company agents, and Section 58-55-302.1;

92 (h) Sections 58-60-103.1, 58-60-205, 58-60-305, 58-60-405, and 58-60-506[~~of Chapter~~
93 ~~60, Mental Health Professional Practice Act~~];

94 (i) Sections 58-61-304 and 58-61-304.1;

95 (j) Sections 58-63-302 and 58-63-302.1;

96 (k) Sections 58-64-302 and 58-64-302.1;

- (l) Sections 58-67-302 and 58-67-302.1;
(m) Sections 58-68-302 and 58-68-302.1; and
(n) Sections 58-70a-301.1 and 58-70a-302[, of Chapter 70a, Utah Physician Assistant Act].

- (2) The division's access to criminal background information under this section:
(a) shall meet the requirements of Section 53-10-108; and
(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.
(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section **58-47b-102** is amended to read:

58-47b-102 . Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Board of Massage Therapy and Acupuncture created in Section 58-47b-201.
- (2) "Bodywork" means:
- (a) the systematic manual or mechanical manipulation of the soft tissue of the body;
 - (b) the use of the hands or a mechanical or electrical apparatus in connection with an activity described in this Subsection (2);
 - (c) range of motion movements or movements without adjustment or articulation of the spinal column as defined in Section 58-73-102;
 - (d) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;
 - (e) manual traction and stretching exercise;
 - (f) activities and modality techniques similar or related to the activities and techniques described in this Subsection (2); or
 - (g) providing, offering, or advertising a paid service using the term "massage" or a derivative of the word "massage" regardless of whether the service includes physical contact.
- [(2)] (3)(a) "Breast" means the female mammary gland~~[-and]~~ .
- (b) "Breast" does not include the muscles, connective tissue, or other soft tissue of the upper chest.

- [~~(3)~~] (4) "Homeostasis" means [~~maintaining, stabilizing, or returning~~] the maintenance, the stabilization, or the return of the muscular system to equilibrium[~~the muscular system~~].
- (5) "Licensed individual" means an individual who is a massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed massage therapist.
- (6) "Licensed massage therapist" means an individual licensed under this chapter to perform massage services without supervision.
- (7) "Limited massage therapy" means:
- (a) bodywork that is not intended to be billed to an insurance company; or
 - (b) bodywork that is not supervised by:
 - (i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
 - (ii) a physician licensed under Chapter 67, Utah Medical Practice Act;
 - (iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act;
 - (iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;
 - (v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
 - (vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.
- [~~(4)~~] (8) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice.
- [~~(5)~~] (9) "Massage assistant" means an individual licensed under this chapter as a massage assistant.
- [~~(6)~~] (10) "Massage [~~assistant-in-training~~] assistant-in-training" means an individual licensed under this chapter as a [~~massage assistant-in-training~~] massage assistant-in-training.
- [~~(7)~~] "Massage therapist" means an individual licensed under this chapter as a massage therapist.]
- [~~(8)~~] "Massage therapy supervisor" means:]
- (a) a massage therapist who has at least three years of experience as a massage therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;]
 - (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;]
 - (c) a physician licensed under Chapter 67, Utah Medical Practice Act;]
 - (d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;]
 - (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or]

165 ~~[(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice~~
166 ~~Act.]~~

167 (11)(a) "Massage establishment" means a place where massage services are performed
168 by an individual.

169 (b) "Massage establishment" includes a location an owner rents or leases to multiple sole
170 practitioners to perform massage services.

171 (c) "Massage establishment" does not include:

172 (i) a location owned, rented, or leased by a single sole practitioner to perform
173 massage services;

174 (ii) an out-call location; or

175 (iii) a massage school where massage services are only performed for an educational
176 purpose.

177 (12) "Massage services" means massage therapy or limited massage therapy.

178 (13) "Massage therapy" means:

179 (a) bodywork that is intended to be billed to an insurance company;

180 (b) bodywork that is supervised by:

181 (i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

182 (ii) a physician licensed under Chapter 67, Utah Medical Practice Act;

183 (iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy
184 Practice Act;

185 (iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
186 Practice Act;

187 (v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

188 (vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician
189 Practice Act;

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

192 (d) counseling, education, and other advisory services to reduce the incidence and
193 severity of physical disability, movement dysfunction, and pain;

194 (e) the use of rehabilitative procedures involving the soft tissue of the body;

195 (f) correction of muscular distortion by treatment of the soft tissues of the body; or

196 (g) work on an acute or subacute injury.

197 (14) "Massage therapy supervisor" means a licensed massage therapist in good standing
198 who has lawfully engaged in massage services for at least 3,000 hours.

(15) "Out-call location" means a location:

(a) where massage services are provided; and

(b) that a sole practitioner or a massage establishment does not own, lease, or rent.

(16)(a) "Owner" means an individual who controls the operation of a massage establishment.

(b) "Owner" includes:

(i) a shareholder, as defined in Section 16-10a-102, who owns, directly or indirectly through an entity controlled by the individual, any of the outstanding shares of an entity that owns, leases, or otherwise operates a massage establishment that:

(A) is a corporation; or

(B) is not publicly listed or traded;

(ii) an individual who owns, directly or indirectly through an entity controlled by the individual, any part of an entity that is not a corporation and that owns, leases, or otherwise operates a massage establishment;

(iii) an individual:

(A) in whose name a certificate of occupancy has been issued for a massage establishment; or

(B) that operates a massage establishment under a lease, operating agreement, franchise, or other arrangement; and

(iv) a sublessee or other legal possessor.

~~[(9)(a) "Practice of limited massage therapy" means:]~~

~~[(i) the systematic manual manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, relaxation, or achieving homeostasis;]~~

~~[(ii) seated chair massage;]~~

~~[(iii) the use of body wraps;]~~

~~[(iv) aromatherapy;]~~

~~[(v) reflexology; or]~~

~~[(vi) in connection with an activity described in this Subsection (9), the use of:]~~

~~[(A) the hands;]~~

~~[(B) a towel;]~~

~~[(C) a stone;]~~

~~[(D) a shell;]~~

- 233 ~~[(E) a bamboo stick; or]~~
- 234 ~~[(F) an herbal ball compress.]~~
- 235 ~~[(b) "Practice of limited massage therapy" does not include work on an acute or subacute~~
- 236 ~~injury.]~~
- 237 ~~[(10) "Practice of massage therapy" means:]~~
- 238 ~~[(a) the examination, assessment, and evaluation of the soft tissue structures of the body~~
- 239 ~~for the purpose of devising a treatment plan to promote homeostasis;]~~
- 240 ~~[(b) the systematic manual or mechanical manipulation of the soft tissue of the body for~~
- 241 ~~the purpose of promoting the therapeutic health and well-being of a client, enhancing~~
- 242 ~~the circulation of the blood and lymph, relaxing and lengthening muscles, relieving~~
- 243 ~~pain, restoring metabolic balance, or achieving homeostasis, or for any other purpose;]~~
- 244 ~~[(c) the use of the hands or a mechanical or electrical apparatus in connection with this~~
- 245 ~~Subsection (10);]~~
- 246 ~~[(d) the use of rehabilitative procedures involving the soft tissue of the body;]~~
- 247 ~~[(e) range of motion or movements without spinal adjustment as set forth in Section~~
- 248 ~~58-73-102;]~~
- 249 ~~[(f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam,~~
- 250 ~~and cabinet baths;]~~
- 251 ~~[(g) manual traction and stretching exercise;]~~
- 252 ~~[(h) correction of muscular distortion by treatment of the soft tissues of the body;]~~
- 253 ~~[(i) counseling, education, and other advisory services to reduce the incidence and~~
- 254 ~~severity of physical disability, movement dysfunction, and pain;]~~
- 255 ~~[(j) activities and modality techniques similar or related to the activities and techniques~~
- 256 ~~described in this Subsection (10);]~~
- 257 ~~[(k) a practice described in this Subsection (10) on an animal to the extent permitted by:]~~
- 258 ~~[(i) Subsection 58-28-307(12);]~~
- 259 ~~[(ii) the provisions of this chapter; and]~~
- 260 ~~[(iii) division rule made in accordance with Title 63G, Chapter 3, Utah~~
- 261 ~~Administrative Rulemaking Act; or]~~
- 262 ~~[(l) providing, offering, or advertising a paid service using the term massage or a~~
- 263 ~~derivative of the word massage, regardless of whether the service includes physical~~
- 264 ~~contact.]~~
- 265 ~~[(17) "Registered massage establishment" means a massage establishment that is registered~~
- 266 ~~with the division to lawfully provide massage services at a fixed massage establishment~~

location in this state.

[(11)] (18) "Soft tissue" means the muscles and related connective tissue.

(19) "Sole practitioner" means a licensed massage therapist who:

(a) does not employ or contract with a licensed individual to offer massage services; and

(b) does not employ an individual who works at the sole practitioner's location on a regular basis.

[(12)] (20) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501[and] , 58-47b-501, and 58-47b-501.1.

[(13)] (21) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501[and] , 58-47b-502, and 58-47b-502.1 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section **58-47b-301** is amended to read:

58-47b-301 . Licensure required -- Registration required -- Scope of practice -- Individuals.

[(1) An individual shall hold a license issued under this chapter in order to engage in the practice of massage therapy or the practice of limited massage therapy, except as specifically provided in Section 58-1-307 or 58-47b-304.]

[(2)]

(1) An individual shall hold a license to perform massage services.

(2) [An individual shall have a license in order to:] Only a licensed individual may:

(a) represent oneself as a ~~[massage therapist, massage apprentice, massage assistant, or massage assistant-in-training]~~ massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed massage therapist;

(b)(i) represent oneself as providing ~~[a service that is within the practice of massage therapy or the practice of limited massage therapy]~~ massage services; or

(ii) use the word "massage" or any ~~[other word]~~ similar wording to describe the ~~[services]~~ service; or

(c) charge or receive a fee or any consideration for providing ~~[a service that is within the practice of massage therapy or the practice of limited massage therapy]~~ massage services.

(3) A licensed individual, other than a sole practitioner, may perform massage services only in:

(a) a registered massage establishment;

(b) an out-call location; or

(c) a location exempt from registration under Section 58-47b-304.1.

(4) A sole practitioner may offer massage services from:

(a) an out-call location;

(b) the licensed individual's residence, if the licensed individual does not employ or contract with another licensed individual; or

(c) a location, other than the licensed individual's residence, that the licensed individual owns, rents, or leases.

(5)(a) Subject to Subsection 58-47b-502(9):

(i) except as provided in Subsection (5)(b), a massage assistant-in-training may perform limited massage therapy under the direct supervision of a massage therapy supervisor;

(ii) a massage assistant may perform limited massage therapy without supervision after completing 300 hours under the indirect supervision of a massage therapy supervisor;

(iii) a massage apprentice may perform massage services under the supervision of a massage therapy supervisor as the division requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) a licensed massage therapist may perform massage services without supervision.

(b) A massage assistant-in-training is permitted to complete 150 hours under the indirect supervision of a massage therapy supervisor.

(6) A massage therapy supervisor may supervise at one time up to six individuals of which no more than four may be massage apprentices or massage assistants-in-training.

Section 4. Section **58-47b-301.1** is enacted to read:

58-47b-301.1 . Massage establishment registration required -- Maintenance of registration.

(1) An owner shall register a massage establishment with the division.

(2)(a) Each place of business shall register separately.

(b) If multiple massage establishments exist at the same address, each massage establishment shall register separately.

(3) A massage establishment shall provide the physical address where the massage establishment operates to the division.

(4) A massage establishment may not allow massage services on the massage establishment's premises unless the massage establishment is registered in accordance

with this section.

(5)(a) A registered massage establishment shall ensure only a licensed individual or an exempt individual performs massage services.

(b) A registered massage establishment shall maintain documentation of the employment or contract relationship and make the documentation available during an inspection or investigation by the division.

(6) An owner may not assign or transfer a massage establishment registration.

(7) Upon the sale, sublease, or change of legal possession of a registered massage establishment, the owner, lessee, or legal possessor of the massage establishment shall notify the division in a form the division approves within 30 days after the day on which the ownership, lessee, or legal possession changes.

(8) Whenever statute or rule requires or prohibits action by a registered massage establishment, any owner of the registered massage establishment is responsible for all activities of the registered massage establishment, regardless of the form of the business organization.

The following section is affected by a coordination clause at the end of this bill.

Section 5. Section **58-47b-302** is repealed and reenacted to read:

58-47b-302 . Qualifications for registration and licensure -- Individuals.

(1) An applicant for a massage assistant-in-training license shall provide satisfactory evidence to the division that the applicant will practice as a massage assistant-in-training only under the supervision of a massage therapy supervisor.

(2) An applicant for a massage assistant license shall:

(a)(i) complete 300 hours of education that meets the standards the division requires by rule;

(ii) complete training on the activities described in Subsection (5)(d) while the applicant is enrolled in massage school; and

(iii) pass an examination as the division requires by rule;

(b)(i) while the applicant is licensed as a massage assistant-in-training:

(A) complete at least 150 hours of education that meets the standards the division requires by rule under the direct supervision of a massage therapy supervisor; and

(B) complete 150 hours of education that meets the standards the division requires by rule under the indirect supervision of a massage therapy supervisor;

(ii) complete training on the activities described in Subsection (5)(d); and

- (iii) pass an examination as the division requires by rule; or
- (c)(i) have a massage safety permit; and
- (ii) pass an examination as the division requires by rule that contains questions that demonstrate the applicant's understanding of:
- (A) the basics of anatomy;
- (B) the basics of contraindications relating to massage;
- (C) the basics of kinesiology;
- (D) the basics of pathology;
- (E) the basics of physiology; and
- (F) the laws and rules relating to massage therapy.
- (3) An applicant for a massage apprentice license shall provide satisfactory evidence to the division that the applicant will practice as a massage apprentice only under the supervision of a massage therapy supervisor as the division requires by rule.
- (4) An applicant for a massage therapist license shall:
- (a)(i)(A) have graduated from a school of massage having a curriculum that meets the standards the division requires by rule; and
- (B) complete training on the activities described in Subsection (5)(d) while the applicant is enrolled in massage school;
- (ii)(A) have completed equivalent education in compliance with standards the division requires by rule; and
- (B) complete training on the activities described in Subsection (5)(d); or
- (iii)(A) have completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training in accordance with standards the division requires by rule; and
- (B) complete training on the activities described in Subsection (5)(d) while the applicant is a massage apprentice; and
- (b) pass an examination as the division requires by rule.
- (5) An applicant for a massage safety permit shall:
- (a) submit an application in a form the division approves;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) be 18 years old or older; and
- (d) complete an educational module the division requires by rule that includes:
- (i) practicing physical boundaries;
- (ii) draping;

- 403 (iii) gaining consent; and
404 (iv) taking a medical history.
405 (6) An applicant for licensure under this chapter shall:
406 (a) submit an application in a form the division approves;
407 (b) pay a fee determined by the department under Section 63J-1-504;
408 (c) be 18 years old or older;
409 (d) consent to, and complete, a criminal background check described in Section
410 58-47b-302.1;
411 (e) meet any standard related to the criminal background check described in Subsection
412 (6)(d) as the division requires by rule; and
413 (f) disclose any criminal history the division requests on a form the division approves.
414 (7) Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall
415 make rules establishing:
416 (a) the examinations required by this chapter;
417 (b) the standards of a massage assistant-in-training program;
418 (c) the standards for a massage school curriculum;
419 (d) the equivalent education and training for a licensed massage therapist;
420 (e) the standards of a massage apprenticeship program including supervision
421 requirements;
422 (f) the educational module described in Subsection (5)(d); and
423 (g) the standards for the criminal background check described in Subsection (6)(e).

424 *The following section is affected by a coordination clause at the end of this bill.*

425 Section 6. Section **58-47b-302.1** is amended to read:

426 **58-47b-302.1 . Criminal background check.**

- 427 (1) An applicant for individual licensure or registration and an owner of a registered
428 massage establishment~~[under this chapter who requires a criminal background check-]~~
429 shall:
430 (a) submit fingerprint cards in a form acceptable to the division at the time the license
431 application is filed; and
432 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
433 Identification and the Federal Bureau of Investigation regarding the application.
434 (2) The division shall:
435 (a) in addition to other fees authorized by this chapter, collect from each applicant
436 submitting fingerprints in accordance with this section the fee that the Bureau of

Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6)(a) A new license issued under this chapter is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act[;] :

(i) if the criminal background check required [in Subsection 58-47b-302(7)] by this section demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division[-] ; and

(ii) if a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

division shall deny an application for registration of a massage establishment.

(c) A person whose conditional license is revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) An applicant who successfully completes a background check under this section may not be required by any other state or local government body to submit to a second background check as a condition of lawfully engaging in the practice of massage therapy or the practice of limited massage therapy in this state.

The following section is affected by a coordination clause at the end of this bill.

Section 7. Section **58-47b-302.2** is enacted to read:

58-47b-302.2 . Qualifications for registration -- Massage establishments.

(1)(a) The owner of a massage establishment shall register the massage establishment.

(b) If the massage establishment has multiple owners, the owners of the massage establishment shall choose one owner to register the massage establishment.

(2) To register a massage establishment, the owner shall:

(a) submit an application in a form the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation:

(i) of registration with the Division of Corporations and Commercial Code;

(ii) of business licensure if the municipality or county in which the massage establishment is located requires a business license;

(iii) that the massage establishment's physical facilities comply with the requirements the division requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) of each owner's ownership or right to possession of the premises where the massage establishment will be operated;

(d)(i) consent to, and complete, a criminal background check, described in Section 58-47b-302.1;

(ii) meet any standard related to the criminal background check described in Subsection (2)(d)(i), that the division requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

- (e) submit the following information for each individual for whom a criminal background check is required under Subsection (3):
- (i) full name;
 - (ii) any name used;
 - (iii) date of birth;
 - (iv) social security number or other satisfactory evidence of the applicant's identity permitted by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (v) address;
 - (vi) phone number;
 - (vii) email address;
 - (viii) license number, if licensed under this chapter;
 - (ix) registration number, if registered under this chapter;
 - (x) a recent color photograph of each owner; and
 - (xi) fingerprints in a form the division approves;
- (f) allow the division to verify that the applicant and each individual listed in Subsection (3) is legally present in the United States;
- (g) submit a signed attestation in a form the division approves by rule attesting that the massage establishment does not engage in illegal activities including human trafficking, sex advertising, or unlicensed practice; and
- (h) meet with the division or board if requested by the division or board.
- (3) An individual shall consent to and complete a criminal background check in accordance with Subsection (2)(d) if the individual:
- (a) personally or constructively holds, including as the beneficiary of a trust:
 - (i) at least 10% of the entity's outstanding stock; or
 - (ii) more than \$25,000 of the fair market value of the entity;
 - (b) has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10% of the profits, proceeds, or capital gains of the entity;
 - (c) is a member of the board of directors or other governing body of the entity; or
 - (d) serves as:
 - (i) an elected officer of the entity; or
 - (ii) a general manager of the entity.
- (4) A minor who is an owner of the massage establishment as the beneficiary of a trust is

exempt from Subsections (2)(d) and (2)(e).

- (5) The division may require an owner to prove continuing right of possession at any time during the registration period.

Section 8. Section **58-47b-303** is amended to read:

58-47b-303 . Term of license and registration -- Expiration -- Renewal --

Individuals.

- (1)(a) Except as provided in Subsection (3), the division shall ~~[issue a license]~~ provide licensing under this chapter in accordance with a two-year renewal cycle established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (b) ~~[A]~~ The division may extend or shorten a license renewal period ~~[may be extended or shortened]~~ by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

- (2) Subject to Subsection (3), a license automatically expires on the expiration date shown on the license unless renewed by the ~~[licensee]~~ licensed individual in accordance with Section 58-1-308.

- (3)(a) A massage apprentice license expires 24 months after the day on which the division issues the massage apprentice license.

- (b) A massage ~~[assistant in training]~~ assistant-in-training license expires six months after the day on which the division issues the ~~[massage assistant in training]~~ massage assistant-in-training license.

- (c) The division may not renew or extend a massage apprentice or massage assistant-in-training license unless:

- (i) a circumstance or hardship arose beyond the individual's control that prevented the individual from completing the process;
- (ii) the division grants the renewal or extension for a period proportionate to the circumstance or hardship; and
- (iii) the individual's massage therapy supervisor consents in writing to the renewal or extension.

- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing the evidence an applicant shall present to renew a license.

Section 9. Section **58-47b-303.1** is enacted to read:

58-47b-303.1 . Term of registration -- Expiration -- Renewal -- Massage

establishments.

(1)(a) Except as provided in Subsection (3), the division shall issue a registration under this chapter in accordance with a two-year renewal cycle.

(b) The division may extend or shorten a renewal period by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) A registration automatically expires on the expiration date shown on the registration unless the registered massage establishment renews.

(3) At the time of renewal, a registered massage therapy establishment shall:

(a) complete and submit an application for renewal in the form the division approves;
and

(b) pay a renewal fee established by the department under Section 63J-1-504.

Section 10. Section **58-47b-304** is amended to read:

58-47b-304 . Exemptions from licensure -- Individuals.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may ~~[engage in the practice of massage therapy or the practice of limited massage therapy]~~ perform massage services, subject to the stated circumstances and limitations, without being ~~[licensed under this chapter]~~ a licensed individual:

- (a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;
- (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;
- (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse Midwife Practice Act;
- (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;
- (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;
- (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;
- (h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;
- (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;
- (j) a student in training enrolled in a massage therapy school approved by the division;
- (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act;

- (l)(i) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act; and
- (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational Therapy Practice Act, while under the general supervision of an occupational therapist;
- (m) an individual performing animal massage therapy under the rules made by the division in accordance with Subsection 58-28-307(12);
- (n) an individual performing gratuitous massage; ~~and~~
- (o) an individual:
- (i) certified by or through, and in good standing with, an industry organization that is recognized by the division and that represents a profession with established standards and ethics:
 - (A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;
 - (B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;
 - (C) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;
 - (D) who is certified to practice bowerwork and whose practice is limited to the scope of practice of bowerwork; or
 - (E) who is certified to practice a type of brain integration and whose practice is limited to the scope of practice for which the individual is certified;
 - (ii) whose clients remain fully clothed from the shoulders to the knees; and
 - (iii) whose clients do not receive gratuitous massage from the individual[-]; and
- (p)(i) an individual performing massage services who:
- (A) holds a valid license, permit, certificate, or registration, for massage services issued by any other jurisdiction of the United States or by a foreign country; or
 - (B) holds a certification from a nationally recognized massage therapy organization if the nonresident individual is from a jurisdiction of the United States that does not regulate massage therapy; and
 - (ii) is temporarily performing massage services in this state for a period that does not exceed 30 days for the purpose of:
 - (A) presenting educational or clinical programs, lectures, seminars, or workshops;

- 641 (B) providing massage services during an emergency as part of a disaster response
642 team; or
- 643 (C) consulting with a licensed individual regarding massage services.
- 644 (2) An individual described in Subsection (1) may not represent oneself as a ~~[massage~~
645 ~~therapist, massage apprentice, massage assistant, or massage assistant in-training]~~
646 massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed
647 massage therapist.
- 648 (3) This chapter may not be construed to:
- 649 (a) authorize any individual licensed under this chapter to engage in any manner in the
650 practice of medicine as defined by the laws of this state;
- 651 (b) require insurance coverage or reimbursement for ~~[massage therapy or limited~~
652 ~~massage therapy-]~~ massage services from third party payors; or
- 653 (c) prevent an insurance carrier from offering coverage for ~~[massage therapy or limited~~
654 ~~massage therapy]~~ massage services.

655 Section 11. Section **58-47b-304.1** is enacted to read:

656 **58-47b-304.1 . Exemptions from registration -- Massage establishments.**

657 The following establishments or facilities are exempt from registering as massage
658 establishments:

- 659 (1) hospitals or medical clinics;
- 660 (2) physician offices;
- 661 (3) physical therapy facilities;
- 662 (4) chiropractic offices;
- 663 (5) athletic training facilities or institutions of secondary or higher education when massage
664 services are performed in connection with employment related to athletic teams;
- 665 (6) a sole practitioner who only rents or leases to a sole practitioner if the sole practitioner
666 meets the requirements described in Section 58-47b-504; and
- 667 (7) other facilities as defined by rule.

668 Section 12. Section **58-47b-305** is amended to read:

669 **58-47b-305 . State and local jurisdiction.**

- 670 (1)(a) The division is the only agency authorized to license and register individuals to [
671 engage in the practice of massage therapy or the practice of limited massage therapy-]
672 perform massage services within the state or any of the state's political subdivisions.
- 673 (b) This chapter does not prevent any political subdivision of the state from enacting:
- 674 (i) subject to Subsection (1)(b)(ii), ordinances governing the operation of

- establishments offering ~~[massages]~~ massage services; or
- (ii) ordinances regulating the practice of massage therapy or the practice of limited massage therapy, if:
- (A) ~~[-]~~ except as provided in Subsection (1)(b)(ii)(B), the ordinances are [not less]
at least as stringent [than] as this chapter[-] ; and
- (B) the ordinances do not require a background check.
- (2) This chapter does not prohibit any political subdivision of the state from prosecuting:
- (a) an ~~[unlicensed]~~ individual who is engaged in ~~[the practice of massage therapy or the practice of limited massage therapy]~~ massage services without the required license; or
- (b) ~~[a licensed]~~ an individual[-who] or a massage establishment that is engaged in unlawful conduct.
- Section 13. Section **58-47b-306** is amended to read:
- 58-47b-306 . Required identification and disclosures -- Individuals.**
- ~~[(1) As used in this section, "massage establishment" means an establishment in which an individual lawfully engages in the practice of massage therapy or the practice of limited massage therapy.]~~
- ~~[(2) If a massage assistant or massage assistant in-training engages in the practice of limited massage therapy at a massage establishment, the massage establishment shall prominently display to the public a sign that indicates certain massage services offered at the massage establishment are performed by a massage assistant or a massage assistant in-training.]~~
- ~~[(3)]~~ (1)(a) Before a licensed individual first provides massage services to a client, the licensed individual shall obtain from the client a completed and signed intake form.
- (b) The division may further define the intake form by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) While performing massage services, a licensed individual:
- (a) except as required in Subsection (2)(b), shall wear or display the licensed individual's first and last name and license type;
- (b) shall wear or display the licensed individual's first name and last initial and license type if the licensed individual requests redaction as described in Subsection 58-47b-306.1(2); and
- (c) ~~[If an individual requests a massage service that is performed by a massage assistant or a massage assistant in-training, the licensee performing or the massage therapy supervisor supervising the massage service shall ensure that the individual is notified~~

before scheduling or agreeing to the massage service that the massage service is performed by a massage assistant or massage assistant-in-training.] may not identify to any person in connection with massage services other than as the individual's license.

- (3) Before scheduling or agreeing to a massage service, the client shall receive notice of the first name and last initial of the licensed individual performing the massage services and the licensed individual's license type.

Section 14. Section **58-47b-306.1** is enacted to read:

58-47b-306.1 . Required signage and disclosures -- Massage establishments.

- (1) A massage establishment shall display prominently:
- (a) the massage establishment registration;
 - (b) a copy of the state issued license for each licensed individual contracted with or employed by the establishment;
 - (c) division resources required by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (d) a sign that states some massage services offered at the registered massage establishment is performed by a massage assistant-in-training, a massage assistant, or a massage apprentice if the massage establishment employs or contracts with a massage assistant-in-training, a massage assistant, or a massage apprentice.
- (2) If a licensed individual has a reasonable belief that the licensed individual's safety may be compromised, the licensed individual may request that the provider redact the displayed license to provide only the first name and last initial and the license type for the licensed individual.
- (3) The massage establishment shall display signage that:
- (a) states the massage establishment has verified that all providers are licensed individuals under Section 58-47b-302; and
 - (b) informs clients of:
 - (i) the right to request the provider's first name and last initial and license type; and
 - (ii) methods for reporting complaints to the division.

Section 15. Section **58-47b-401** is amended to read:

58-47b-401 . Grounds for denial of license -- Individuals.

[Grounds for-] If there are grounds in accordance with Section 58-1-401, the division may take the following actions regarding [a license under this chapter are in accordance with Section 58-1-401] a licensed individual:

- (1) refusal to issue a license to an applicant;
- (2) refusal to renew the license of a licensee;
- (3) revocation, suspension, restriction, or placement on probation of a license;
- (4) issuance of a public or private reprimand to a licensee; and
- (5) issuance of a cease and desist order.

Section 16. Section **58-47b-401.1** is enacted to read:

58-47b-401.1 . Grounds for denial of registration -- Massage establishments.

The division shall deny an application for registration of a massage establishment under this chapter if:

- (1) the location in the registration application had a registration revoked or surrendered for cause within the last two years;
- (2) the application is for a location or a business that has advertised in a manner that reasonably implies sexual services are offered at the location;
- (3) within two years before the date of the application, an owner had a previous license or registration issued under this chapter suspended or revoked; or
- (4) an owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 17. Section **58-47b-501** is amended to read:

58-47b-501 . Unlawful conduct -- Individuals.

- (1) "Unlawful conduct" for an individual includes:
 - (a) ~~[practicing, engaging in, or attempting to practice or engage in the practice of massage therapy without holding a current license as a massage therapist or a massage apprentice under this chapter]~~ performance of massage services without being a licensed individual or an exempt individual;
 - (b) ~~[advertising or representing oneself as engaging in the practice of massage therapy when not licensed to do so]~~ advertisement of or representation of oneself as able to perform massage services when not a licensed individual or an exempt individual;
 - (c) performance of massage services outside the scope of what the licensed individual is licensed or registered to perform; or
 - (e) ~~practicing, engaging in, or attempting to practice or engage in the practice of limited massage therapy without holding a current license as a massage therapist, massage apprentice, massage assistant, or massage assistant in-training under this chapter;~~

~~[(d) advertising or representing oneself as engaging in the practice of limited massage therapy when not licensed to do so; and]~~

~~[(e)] (d) [massaging, touching, or applying] while performing massage services, massage, touch, or application of any instrument or device [by a licensee in the course of engaging in the practice of massage therapy or the practice of limited massage therapy] to the:~~

~~(i) genitals;~~

~~(ii) anus; or~~

~~(iii) except as provided in Subsection (2), breasts of a female [patron] client.~~

~~(2)(a) Subsection [(1)(e)(iii)] (1)(d)(iii) does not apply if a female [patron] client:~~

~~(i) requests breast massage, as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~

~~(ii) subject to Subsection (2)(b), signs a written consent form before each time the procedure is performed.~~

~~(b) If the female [patron] client is a minor, the female [patron's] client's parent or legal guardian shall sign the written consent form described in Subsection (2)(a).~~

Section 18. Section **58-47b-501.1** is enacted to read:

58-47b-501.1 . Unlawful conduct -- Massage establishments.

"Unlawful conduct" for a massage establishment includes:

(1) operation without a valid registration;

(2) use of a registered massage establishment as housing, sheltering, or for harboring any individual;

(3) performance of massage services by an individual who is not licensed or exempt;

(4) performance of:

(a) massage services without the individual performing the massage being fully clothed;
or

(b) a sexual act;

(5) arrangement for a sexual act;

(6) use or the possession of adult-oriented merchandise while at the registered massage establishment;

(7) advertisement on a sexually oriented website;

(8) advertisement of services in a manner that may be reasonably construed as sexual in nature;

(9) refusal of inspection by the division as authorized under Section 58-47b-601;

- (10) arrangement or allowance of any of the unlawful acts described in Section 58-47b-501;
(11) failure to immediately report to a local police department any disorderly conduct, sexual acts, or other criminal activity occurring on or within the registered massage establishment's premises;
(12) concealment of an individual in the massage establishment;
(13) refusal to provide identification to inspectors or law enforcement; or
(14) attempt to elude an inspector by leaving the massage establishment or remaining behind locked doors in the massage establishment during an inspection.

Section 19. Section **58-47b-502** is amended to read:

58-47b-502 . Unprofessional conduct -- Individuals.

"Unprofessional conduct" for an individual includes the following and may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) [~~maintaining, operating, or assisting~~] the maintenance, operation, or assistance in the establishment or operation of any place of business for the purpose of performing[the practice of] [massage therapy or the practice of limited massage therapy] massage services without first obtaining a business license, if a license is required;
(2) [~~failing~~] failure to comply with any applicable ordinances relating to the regulation of massage establishment;
(3) [~~failing~~] failure to comply with all applicable state and local health or sanitation codes;
(4) [~~failing~~] failure of a massage therapy supervisor to properly supervise a massage apprentice, massage assistant, [or massage assistant in-training] or a massage assistant-in-training; [;]
(5) [~~failing~~] failure to maintain mechanical or electrical equipment in a safe operating condition;
(6) [~~failing~~] failure to adequately monitor [~~patrons~~] clients utilizing steam rooms, dry heat cabinets, or water baths;
(7) [~~prescribing or administering~~] prescription or administration of medicine or drugs;
(8) [~~engaging~~] engagement in any act or practice in a professional capacity that is outside of the [~~practice of massage therapy or the practice of limited massage therapy~~] scope of massage services; and
(9) [~~engaging~~] engagement in any act or practice in a professional capacity for which the [~~licensee~~] licensed individual is not competent to perform through training or experience.

Section 20. Section **58-47b-502.1** is enacted to read:

58-47b-502.1 . Unprofessional conduct -- Massage establishments.

"Unprofessional conduct" for a massage establishment includes the following and may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) failure to comply with employee or client recordkeeping requirements as established in rule;
- (2) failure to comply with all applicable state and local health or sanitation codes and requirements as established by rule;
- (3) failure to comply with facility requirements as established by rule;
- (4) maintenance, operation, or assistance in an establishment or operation of any place of business for the purpose of performing massage services without first obtaining a business registration, if a license is required;
- (5) failure to comply with any applicable ordinances relating to the regulation of massage establishment;
- (6) failure to maintain mechanical or electrical equipment in a safe operating condition; and
- (7) failure to adequately monitor a client utilizing steam rooms, dry heat cabinets, or water baths.

Section 21. Section **58-47b-503** is amended to read:

58-47b-503 . Penalties -- Individuals.

- (1) Except as provided in Subsection (2), [any] an individual who commits an act of unlawful conduct under Section 58-47b-501 is guilty of a class A misdemeanor.
- (2) Sexual conduct that violates Section 58-47b-501 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76, Utah Criminal Code.
- (3) For acts of unprofessional conduct or unlawful conduct by an individual, the division may:
 - (a) assess an administrative fine in accordance with Subsection 58-1-502(1); and
 - (b) take any appropriate administrative action, which may include sending letters of concern to the municipality and the police department for the municipality in which the individual violates this chapter.
- (4) The division shall deposit an administrative fine imposed in accordance with this section into the Commerce Service Account.
- (5) If an individual has been convicted of violating Section 58-47b-501, before an administrative finding of a violation of the same section, the individual may not be assessed an administrative fine under this chapter for the same incident for which the

conviction was obtained.

(6)(a) If, upon an inspection described in Section 58-47b-601 or an investigation under this section, the division concludes that an individual has violated the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

- (i) notify the individual to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) promptly issue a citation to the individual according to this chapter and any pertinent rules.

(b) The division shall suspend, revoke, place on probation, or refuse to issue or renew the license of a licensed individual that fails to comply with the citation after the citation becomes final.

(c) Failure of an individual to comply with a citation after the citation becomes final is a ground for denial of license or renewal.

(d) The division may not issue a citation under this section after one year from the date on which the violation that is the subject of the citation is reported to the division.

(e)(i) In addition to or in lieu of an administrative fine authorized in Subsection (3), the division may assess a penalty to any person that is in violation of the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding.

(ii) The penalty may be in an amount that is the greater of up to \$10,000 per single violation or up to \$2,000 per day of an ongoing violation in accordance with a penalty schedule established by rule.

(iii) The division shall deposit a penalty imposed in accordance with this section into the Commerce Service Account.

(iv) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the individual against whom the penalty is imposed resides or in the county where the office

- 913 of the director is located.
- 914 (v) The division may consult with the county attorney or the attorney general of the
- 915 state for legal assistance and advice in an action to collect a penalty.
- 916 (vi) A court shall award reasonable attorney fees and costs to the prevailing party in
- 917 an action brought by the division to collect a penalty.
- 918 (vii) In addition to or in lieu of a penalty, the division may order the individual to
- 919 cease and desist from violating the provisions of Chapter 1, Division of
- 920 Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or
- 921 order issued with respect to these provisions.
- 922 (7)(a) A citation under Subsection (6) shall:
- 923 (i) be in writing and describe with particularity the nature of the violation, including
- 924 a reference to the provision of the chapter, rule, or order alleged to have been
- 925 violated;
- 926 (ii) state that the individual to whom the division issues the citation shall notify the
- 927 division in writing within 20 calendar days of service of the citation to contest the
- 928 citation at a hearing conducted under Title 63G, Chapter 4, Administrative
- 929 Procedures Act; and
- 930 (iii) explain the consequences of failure to timely contest the citation or to make
- 931 payment of any penalties assessed by the citation within the time specified in the
- 932 citation.
- 933 (b) The division may serve a citation issued under this section, or a copy of each
- 934 citation, upon any individual upon which a summons may be served:
- 935 (i) in accordance with the Utah Rules of Civil Procedure;
- 936 (ii) personally or upon the individual's agent by a division investigator or by any
- 937 person specially designated by the director; or
- 938 (iii) by mail.
- 939 (c) If, within 20 calendar days after the day of service of a citation, the individual to
- 940 whom the division issues the citation fails to request a hearing to contest the citation,
- 941 the citation becomes the final order of the division and is not subject to further
- 942 agency review.
- 943 (d) The division may extend the period to contest the citation for cause.
- 944 (8)(a) The division may suspend the license of a licensed individual without notice if:
- 945 (i) there is a pattern of credible facts that the individual is attempting to operate a
- 946 prostitution enterprise; or

(ii) the individual is engaged in any form of human trafficking whether there is a violation of any other specific law, rule, or code.

(b) If the division suspends the license of a licensed individual without notice, the division shall hold a hearing within 15 days.

Section 22. Section **58-47b-503.1** is enacted to read:

58-47b-503.1 . Penalties -- Massage establishments.

(1) For acts of unprofessional conduct or unlawful conduct by a massage establishment, the division may:

(a) assess an administrative fine in accordance with Subsection 58-1-502(1); and

(b) take any appropriate administrative action, which may include sending letters of concern to:

(i) the municipality and the police department for the municipality in which the massage establishment is located; or

(ii) the property owner or manager from which the massage establishment is leasing space.

(2) The division shall deposit an administrative fine imposed in accordance with this section into the Commerce Service Account.

(3) If a massage establishment owner has been convicted of violating Section 58-47b-501.1, before an administrative finding of a violation of the same section, the massage establishment owner may not be assessed an administrative fine under this chapter for the same incident for which the conviction was obtained.

(4)(a) If, upon an inspection described in Section 58-47b-601 or an investigation under this section, the division concludes that a massage establishment has violated the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) notify the massage establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act;

(ii) attempt to negotiate a stipulated settlement; or

(iii) promptly issue a citation to the massage establishment according to this chapter and any pertinent rules.

(b) The division shall suspend, revoke, place on probation, or refuse to issue or renew the registration of a registered massage establishment that fails to comply with the

- 981 citation after the citation becomes final.
- 982 (c) Failure of a massage establishment to comply with a citation after the citation
- 983 becomes final is a ground for denial of license, registration, or renewal.
- 984 (d) The division may not issue a citation under this section after one year from the date
- 985 on which the violation that is the subject of the citation is reported to the division.
- 986 (e)(i) In addition to or in lieu of an administrative fine authorized in Subsection (1),
- 987 the division may assess a penalty to any massage establishment that is in violation
- 988 of the provisions of Chapter 1, Division of Professional Licensing Act, Section
- 989 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these
- 990 provisions, as evidenced by an uncontested citation, a stipulated settlement, or a
- 991 finding of violation in an adjudicative proceeding.
- 992 (ii) The penalty may be in an amount that is the greater of up to \$10,000 per single
- 993 violation or up to \$2,000 per day of an ongoing violation in accordance with a
- 994 penalty schedule established by rule.
- 995 (iii) The division shall deposit a penalty imposed in accordance with this section into
- 996 the Commerce Service Account.
- 997 (iv) The director may collect a penalty that is not paid by:
- 998 (A) referring the matter to a collection agency; or
- 999 (B) bringing an action in the district court of the county where the massage
- 1000 establishment against which the penalty is imposed resides or in the county
- 1001 where the office of the director is located.
- 1002 (v) The division may consult with the county attorney or the attorney general of the
- 1003 state for legal assistance and advice in an action to collect a penalty.
- 1004 (vi) A court shall award reasonable attorney fees and costs to the prevailing party in
- 1005 an action brought by the division to collect a penalty.
- 1006 (vii) In addition to or in lieu of a penalty, the division may order the massage
- 1007 establishment to cease and desist from violating the provisions of Chapter 1,
- 1008 Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or
- 1009 any rule or order issued with respect to these provisions.
- 1010 (5)(a) A citation under Subsection (4) shall:
- 1011 (i) be in writing and describe with particularity the nature of the violation, including
- 1012 a reference to the provision of the chapter, rule, or order alleged to have been
- 1013 violated;
- 1014 (ii) state that the massage establishment to which the division issues the citation shall

- 1015 notify the division in writing within 20 calendar days of service of the citation to
1016 contest the citation at a hearing conducted under Title 63G, Chapter 4,
1017 Administrative Procedures Act; and
1018 (iii) explain the consequences of failure to timely contest the citation or to make
1019 payment of any penalties assessed by the citation within the time specified in the
1020 citation.
- 1021 (b) The division may serve a citation issued under this section, or a copy of each
1022 citation, upon any massage establishment upon which a summons may be served:
1023 (i) in accordance with the Utah Rules of Civil Procedure;
1024 (ii) personally or upon the massage establishment's agent by a division investigator or
1025 by any person specially designated by the director; or
1026 (iii) by mail.
- 1027 (c) If, within 20 calendar days after the day of service of a citation, the massage
1028 establishment to which the division issues the citation fails to request a hearing to
1029 contest the citation, the citation becomes the final order of the division and is not
1030 subject to further agency review.
- 1031 (d) The division may extend the period to contest the citation for cause.
- 1032 (6)(a) The division may suspend a registered massage establishment's registration
1033 without notice if:
1034 (i) there is a pattern of credible facts that the registered massage establishment is
1035 attempting to operate a prostitution enterprise; or
1036 (ii) the registered massage establishment is engaged in any form of human trafficking
1037 whether there is a violation of any other specific law, rule, or code.
- 1038 (b) If the division suspends the registration without notice, the division shall hold a
1039 hearing within 15 days.
- 1040 Section 23. Section **58-47b-504** is enacted to read:
1041 **58-47b-504 . Renting or leasing to a sole practitioner.**
1042 A sole practitioner renting or leasing to a sole practitioner is not liable for the actions of
1043 the sole practitioner to which the sole practitioner rents or leases so long as the sole
1044 practitioner:
1045 (1) verifies that the sole practitioner who is renting or leasing is a licensed massage
1046 therapist and in good standing in the state of Utah at the time of the rental or lease;
1047 (2) obtains a signed attestation from the sole practitioner who is renting or leasing that the
1048 sole practitioner has no business arrangement with the licensed individual other than a

rental or lease; and

(3) produces copies of the following if requested by the division:

(a) the sole practitioner's state massage license;

(b) the sole practitioner's signed attestation described in Subsection (2); and

(c) the rental agreement.

Section 24. Section **58-47b-601** is enacted to read:

Part 6. Enforcement

58-47b-601 . Inspection.

(1) For the purpose of verifying compliance with this chapter, the division may enter and inspect the premises of any massage establishment.

(2) Before conducting an inspection under Subsection (1), the division shall:

(a) give proper identification;

(b) request the registration for the massage establishment;

(c) describe the nature and purpose of the inspection; and

(d) provide upon request, the authority of the division to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 58-47b-503.1.

(3) If during the inspection, the inspector has reasonable expectation that an occupant of a room is not fully clothed, the inspector shall allow the occupant a reasonable amount of time to dress before the inspector enters the room.

(4) In conducting an inspection under Subsection (1), the division may, after meeting the requirements of Subsection (2):

(a) examine any record, device, equipment, machine, electronic device or media, or area related to the practice of massage therapy for the purpose of verifying compliance with the applicable provisions of this chapter;

(b) reproduce any record or media at the division's own cost; and

(c) take a device for further analysis if considered necessary.

(5) The owner or manager of the massage establishment shall assist the inspector by providing access to:

(a) all areas of the massage establishment;

(b) all personnel; and

(c) all records requested by the inspector.

(6) If upon inspection the division concludes that a person has violated the provisions of this chapter, or a rule or order issued with respect to this chapter, and that disciplinary action is appropriate, the director or the director's designee shall issue a penalty or

citation to the registrant.

Section 25. Section **63I-1-258** is amended to read:

63I-1-258 . Repeal dates: Title 58.

- (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.
- (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.
- (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.
- (4) Section 58-37-3.5, Drugs for behavioral health treatment, is repealed July 1, 2027.
- (5) Subsection 58-37-6(7)(f)(iii), regarding a seven-day opiate supply restriction, is repealed July 1, 2032.
- (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.
- (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.
- (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.
- (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.
- (10) Subsection 58-47b-102(8), defining massage assistant, is repealed July 1, 2029.
- (11) Subsection 58-47b-102(9), defining massage assistant-in-training, is repealed July 1, 2029.
- (12) Subsection 58-47b-302(1), regarding applicant for a massage assistant-in-training, is repealed July 1, 2029.
- (13) Subsection 58-47b-302(2), regarding applicant for a massage assistant, is repealed July 1, 2029.
- (14) Subsection 58-47b-303(3)(b), regarding expiration of a massage assistant-in-training license, is repealed July 1, 2029.
- (15) Subsection 58-55-201(2), regarding the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.
- [(H)] (16) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

Section 26. **Effective Date.**

This bill takes effect on October 1, 2025.

Section 27. **Coordinating H.B. 278 with S.B. 44.**

If H.B. 278, Massage Therapy Amendments, and S.B. 44, Professional Licensure Amendments, both pass and become law, the Legislature intends that, on October 1, 2025:

(1) Subsection 58-1-301.5(1) in S.B. 44 be amended to read:

"(1) As used in this section, "applicant" means an individual applying for licensure, certification, or registration, or with respect to a license, certification or registration, applying for renewal, reinstatement, relicensure, or recertification, as required in:

(a) Section 58-5a-302;

(b) Section 58-16a-302;

(c) Section 58-17b-303;

(d) Section 58-17b-304;

(e) Section 58-17b-305;

(f) Section 58-17b-306;

(g) Section 58-24b-302;

(h) Section 58-31b-302;

(i) Section 58-42a-302;

(j) Section 58-44a-302;

(k) Section 58-47b-302;

(l) Section 58-47b-302.2;

(m) Section 58-55-302;

(n) Section 58-60-205;

(o) Section 58-60-305;

(p) Section 58-60-405;

(q) Section 58-60-506;

(r) Section 58-61-304;

(s) Section 58-63-302;

(t) Section 58-64-302;

(u) Section 58-67-302;

(v) Section 58-68-302;

(w) Section 58-69-302;

(x) Section 58-70a-302;

(y) Section 58-70b-302;

(z) Section 58-71-302; or

(aa) Section 58-73-302.";

(2) Subsection 58-1-301.5(5) enacted in S.B. 44 be amended to read:

"(5) To fulfill an applicable criminal background check requirement, an applicant shall:

(a) submit fingerprints in a form acceptable to the division at the time the applicant files a license application or a registration; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.";

(3) Subsection 58-1-301.5(8) enacted in S.B. 44 be amended to read:

"(8)(a)(i) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required under this section demonstrates, after the applicant is licensed or registered, that the applicant failed to accurately disclose a criminal history, the division may provide notice to the applicant that the license or registration is immediately and automatically revoked.

(ii) If a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an application for registration of a massage establishment.

(b)(i) An individual whose license has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(ii) A registered massage establishment for which the registration has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(c) The division shall conduct the hearing described in this Subsection (8) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.";

(4) Subsection 58-47b-302(6)(d) enacted in H.B. 278 be amended to read:

"(d) consent to, and complete, a criminal background check, described in Section 58-1-301.5."; and

(5) Subsection 58-47b-302.2(2)(d)(i) enacted in H.B. 278 be amended to read:

"(d)(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;".