

1                                   **MASSAGE PRACTICE ACT AMENDMENTS**

2   1998 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: R. Mont Evans**

5 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; AMENDING THE SCOPE  
6 OF PRACTICE FOR MASSAGE THERAPY; CREATING NEW LICENSING  
7 CLASSIFICATIONS AND ESTABLISHING RELATED QUALIFICATIONS; REQUIRING  
8 CONTINUING EDUCATION FOR MASSAGE THERAPISTS; ADDING EXEMPTIONS TO  
9 LICENSURE; REMOVING LICENSURE EXEMPTION FOR LYMPHATIC MASSAGE  
10 PRACTITIONERS; AMENDING THE DEFINITIONS OF UNLAWFUL CONDUCT AND  
11 UNPROFESSIONAL CONDUCT; MAKING CONFORMING AMENDMENTS; AND  
12 PROVIDING AN EFFECTIVE DATE.

13 This act affects sections of Utah Code Annotated 1953 as follows:

14 AMENDS:

15           **58-47b-101**, as enacted by Chapter 76, Laws of Utah 1996

16           **58-47b-102**, as enacted by Chapter 76, Laws of Utah 1996

17           **58-47b-201**, as enacted by Chapter 76, Laws of Utah 1996

18           **58-47b-301**, as enacted by Chapter 76, Laws of Utah 1996

19           **58-47b-302**, as enacted by Chapter 76, Laws of Utah 1996

20           **58-47b-303**, as enacted by Chapter 76, Laws of Utah 1996

21           **58-47b-304**, as last amended by Chapter 10, Laws of Utah 1997

22           **58-47b-305**, as enacted by Chapter 76, Laws of Utah 1996

23           **58-47b-501**, as enacted by Chapter 76, Laws of Utah 1996

24           **58-47b-502**, as enacted by Chapter 76, Laws of Utah 1996

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

26           Section 1. Section **58-47b-101** is amended to read:

27           **58-47b-101. Title.**

1 This chapter is known as the "Massage Therapy Practice Act."

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

3 **58-47b-102. Definitions.**

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

5 (1) "Board" means the Utah Board of Massage Therapy created in Section 58-47b-201.

6 [~~(2) "Massage" means the practice whereby an individual:~~]

7 [~~(a) (i) represents himself as a massage technician or massage apprentice;~~]

8 [~~(ii) represents himself as providing massage services using the word massage or any other~~  
9 ~~word to describe the massage services;~~]

10 [~~(iii) teaches massage; or~~]

11 [~~(iv) charges or receives a fee or any consideration for providing massage services; and~~]

12 [~~(b) while carrying out any act under Subsection (2)(a), either by the hands or with a~~  
13 ~~mechanical or electrical apparatus administers to another person;~~]

14 [~~(i) effleurage or stroking, friction or rubbing, petrissage or kneading, tapotement or~~  
15 ~~percussion, vibration, shaking, or trembling, or variations of these;~~]

16 [~~(ii) the use of rehabilitative procedures involving the muscles by noninvasive means and~~  
17 ~~without spinal manipulation; or~~]

18 [~~(iii) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, or cabinet~~  
19 ~~baths.~~]

20 (2) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular  
21 system.

22 (3) "Massage apprentice" means an individual licensed under this chapter as a massage  
23 apprentice to work under the direct supervision of a licensed massage technician.

24 (4) "Massage practitioner" means a person licensed under this chapter as a massage  
25 practitioner.

26 [~~(4)~~] (5) "Massage [technician] therapist" means an individual [who is] licensed under this  
27 chapter as a massage technician.

28 (6) "Practice of massage therapy" means:

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

31 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for

- 1 the therapeutic purpose of:
- 2       (i) promoting the health and well-being of a client;
- 3       (ii) enhancing the circulation of the blood and lymph;
- 4       (iii) relaxing muscles;
- 5       (iv) relieving pain;
- 6       (v) restoring metabolic balance; and
- 7       (vi) achieving physical and mental homeostasis;
- 8       (c) the use of the hands or a mechanical or electrical apparatus in the following massage
- 9 and modalities techniques of Eastern and Western origin:
- 10       (i) effleurage or stroking;
- 11       (ii) friction or rubbing;
- 12       (iii) petrissage or kneading;
- 13       (iv) tapotement or percussion;
- 14       (v) vibration, shaking, trembling;
- 15       (vi) static pressure;
- 16       (vii) deep tissue;
- 17       (viii) neuromuscular;
- 18       (ix) reflexology;
- 19       (x) lymphatic massage;
- 20       (xi) trigger point therapy;
- 21       (xii) rhythm and touch;
- 22       (xiii) myofacial therapy;
- 23       (xiv) acupressure;
- 24       (xv) oriental body work;
- 25       (xvi) facilitated stretching;
- 26       (xvii) sports massage; and
- 27       (xviii) similar or related techniques and modalities;
- 28       (d) the use of rehabilitative procedures involving the soft tissue of body;
- 29       (e) joint mobilization without spinal manipulation or movements as set forth in Section
- 30 58-73-102;
- 31       (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet

1 baths;

2 (g) manual traction, stretching, and exercise;

3 (h) correction of muscular distortion, body mechanics, and gait by treatment of the soft  
4 tissues of the body; and

5 (i) counseling, education, and other advisory services to reduce the incidence and severity  
6 of physical disability, movement dysfunction, and pain.

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

8 [~~5~~] (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

9 [~~6~~] (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and  
10 as may be further defined by division rule.

11 Section 3. Section **58-47b-201** is amended to read:

12 **58-47b-201. Board.**

13 (1) There is created the Board of Massage Therapy consisting of [four]:

14 (a) three massage [technicians] therapists;

15 (b) one massage practitioner; and

16 (c) one member of the general public.

17 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

18 (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202  
19 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating  
20 basis to:

21 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional  
22 conduct of a licensee; and

23 (b) advise the division in its investigation of these complaints.

24 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in  
25 its investigation may be disqualified from participating with the board when the board serves as  
26 a presiding officer in an adjudicative proceeding concerning the complaint.

27 Section 4. Section **58-47b-301** is amended to read:

28 **58-47b-301. Licensure required.**

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

31 (2) An individual shall have a license in order to:

1 (a) represent himself as a massage [technician] therapist, massage practitioner, or massage  
2 apprentice;

3 (b) represents himself as providing a service that is within the practice of massage therapy  
4 or uses the word massage or any other word to describe such services; or

5 (c) charges or receives a fee or any consideration for providing a service that is within the  
6 practice of massage therapy.

7 Section 5. Section **58-47b-302** is amended to read:

8 **58-47b-302. License classifications -- Qualifications for licensure.**

9 (1) The division shall issue licenses under this chapter in the classifications of:

10 (a) massage [technician] therapist; [and]

11 (b) massage practitioner; and

12 [~~(b)~~] (c) massage apprentice.

13 (2) Each applicant for licensure as a massage [technician] therapist shall:

14 (a) submit an application in a form prescribed by the division;

15 (b) pay a fee determined by the department under Section 63-38-3.2;

16 (c) be of good moral character;

17 (d) have either:

18 (i) (A) graduated from a school of massage having a curriculum consisting of a minimum  
19 of 1,000 hours of classroom training with a minimum of 100 hours of anatomy which meets  
20 standards established by division rule made in collaboration with the board; or [~~have]~~

21 (B) completed equivalent education and training in compliance with division rule; or

22 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours  
23 of supervised training over a minimum of 12 months and 200 hours of educational training in  
24 specialized modalities in [content in] accordance with standards established by the division by rule  
25 made in collaboration with the board; [and] or

26 (iii) completed a minimum of 6,000 hours of work experience as a licensed massage  
27 therapist in good standing; and

28 (e) [~~have passed]~~ pass examinations established by rule by the division in collaboration  
29 with the board.

30 (3) Each applicant for licensure as a massage practitioner shall:

31 (a) submit an application in a form prescribed by the division;

- 1           **(b) pay a fee determined by the division under Section 63-38-3.2;**
- 2           **(c) be of good moral character;**
- 3           **(d) have either:**
- 4           **(i) (A) graduated from a school of massage having a curriculum consisting of a minimum**
- 5 **of 600 hours of classroom training with a minimum of 100 hours of anatomy; or**
- 6           **(B) completed equivalent education and training in compliance with division rule; or**
- 7           **(ii) completed a massage apprenticeship consisting of 1,000 hours of supervised training**
- 8 **over a minimum of 12 months and in accordance with standards established by the division by**
- 9 **rule; and**
- 10          **(e) pass examinations established by rule by the division in collaboration with the board.**

11          [(3)] (4) Each applicant for licensure as a massage apprentice shall:

- 12          (a) submit an application in a form prescribed by the division;
- 13          (b) pay a fee determined by the department under Section 63-38-3.2;
- 14          (c) be of good moral character;
- 15          (d) provide satisfactory evidence to the division that the individual will practice as a
- 16 massage apprentice only under the direct supervision of a licensed massage [technician] therapist
- 17 in good standing who has engaged in the lawful practice of massage therapy as a licensed massage
- 18 [technician] therapist for not less than 6,000 hours; and
- 19          (e) successfully complete an examination as required by division rule.

20          Section 6. Section **58-47b-303** is amended to read:

21          **58-47b-303. Term of license -- Expiration -- Renewal.**

22          (1) (a) Each license issued under this chapter shall be issued in accordance with a two-year

23 renewal cycle established by rule.

24          (b) A renewal period may be extended or shortened by as much as one year to maintain

25 established renewal cycles or to change an established renewal cycle.

26          (2) Each license automatically expires on the expiration date shown on the license unless

27 renewed by the licensee in accordance with Section 58-1-308 and Subsection (3).

28          (3) (a) A licensed massage therapist shall submit documentation to the division at the time

29 of renewal demonstrating the completion of ten hours per year of continuing education approved

30 by the board.

31          **(b) If a licensed massage therapist fails to submit documentation of continuing education**

1 as required by Subsection (3)(a), the division shall issue a massage practitioner's license to the  
2 licensee.

3 Section 7. Section **58-47b-304** is amended to read:

4 **58-47b-304. Exemptions from licensure.**

5 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
6 individuals may engage in the practice of massage therapy as defined under this chapter, subject  
7 to the stated circumstances and limitations, without being licensed, but may not represent  
8 themselves as a massage ~~[technician]~~ therapist, massage practitioner, or massage apprentice:

9 (a) physicians and surgeons licensed under Title 58, Chapter ~~[12]~~ 67, ~~[Part 5,]~~ Utah  
10 Medical Practice Act;

11 (b) nurses licensed under Title 58, Chapter 31, Nurse Practice Act, or under Title 58,  
12 Chapter 44a, Nurse Midwife Practice Act;

13 (c) physical therapists licensed under Title 58, Chapter 24a, Physical Therapist Practice  
14 Act;

15 (d) ~~[osteopaths]~~ osteopathic physicians and surgeons licensed under Title 58, Chapter ~~[12]~~  
16 68, ~~[Part 1,]~~ Utah Osteopathic ~~[Medicine Licensing]~~ Medical Practice Act;

17 (e) chiropractors licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;

18 (f) hospital staff members employed by a hospital who practice massage as part of their  
19 responsibilities;

20 (g) athletic trainers who practice massage as part of their responsibilities while employed  
21 by an educational institution or an athletic team that participates in organized sports competition;

22 (h) students in training enrolled in a massage therapy school approved by the division;  
23 ~~[and]~~

24 (i) until July 1, 2000, individuals engaging in lymphatic massage and who meet training  
25 standards as defined by division rule~~[-];~~ and

26 (j) naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic Physician  
27 Practice Act.

28 (2) This chapter may not be construed to authorize any individual licensed ~~[as a massage~~  
29 ~~technician]~~ under this chapter to engage in any manner in the practice of medicine as defined by  
30 the laws of this state.

31 (3) This chapter may not be construed to:

1 (a) create or require insurance coverage or reimbursement for massage therapy from third  
2 party payors if this type of coverage did not exist on or before February 15, 1990; or

3 (b) prevent any insurance carrier from offering coverage for massage therapy.

4 Section 8. Section **58-47b-305** is amended to read:

5 **58-47b-305. State and local jurisdiction.**

6 (1) (a) The division is the only agency authorized to license individuals to practice  
7 massage therapy within the state or any of its political subdivisions.

8 (b) This chapter does not prevent any political subdivision of the state from enacting:

9 (i) ordinances governing the operation of establishments offering massages; or

10 (ii) ordinances regulating the practice of massage therapy, if the ordinances are not less  
11 stringent than this chapter.

12 (2) This chapter does not prohibit any political subdivision of the state from prosecuting  
13 unlicensed individuals engaged in the practice of massage therapy or from prosecuting licensed  
14 individuals who are engaged in unlawful conduct.

15 Section 9. Section **58-47b-501** is amended to read:

16 **58-47b-501. Unlawful conduct.**

17 "Unlawful conduct" includes:

18 (1) practicing, engaging in, or attempting to practice or engage in massage therapy without  
19 holding a current license as a massage [technician] therapist, massage practitioner, or a massage  
20 apprentice under this chapter;

21 (2) advertising or representing himself as practicing massage therapy when not licensed  
22 to do so; and

23 (3) massaging, touching, or applying any instrument or device to the following areas of  
24 the body:

25 [(i)] (a) genitals or [~~the~~] anus; and

26 [(ii)] (b) breasts of a female patron, except in cases in which the female patron states to  
27 a licensee that the patron requests breast massage and signs a written consent form authorizing the  
28 licensee to perform breast massage before the procedure.

29 Section 10. Section **58-47b-502** is amended to read:

30 **58-47b-502. Unprofessional conduct.**

31 "Unprofessional conduct" includes the following and may be further defined by division



1 rule:

2 (1) maintaining, operating, or assisting in the establishment or operation of any place of  
3 business for the purpose of performing massage without first obtaining a business license, if a  
4 license is required; [and]

5 (2) failing to comply with any applicable ordinances relating to the regulation of massage  
6 establishment;

7 (3) failing to comply with all applicable state and local health or sanitation codes;

8 (4) failing to properly supervise an apprentice;

9 (5) failing to maintain mechanical or electrical equipment in a safe operating condition;

10 (6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or water  
11 baths; [or]

12 (7) prescribing or administering medicine or drugs;

13 (8) engaging in any act or practice in a professional capacity that is outside of the practice  
14 of massage therapy; and

15 (9) engaging in any act or practice in a professional capacity for which the licensee is not  
16 competent to perform through training or experience.

17 Section 11. **Effective date.**

18 This act takes effect on July 1, 1998.

**Legislative Review Note**  
**as of 1-5-98 11:38 AM**

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

**Office of Legislative Research and General Counsel**