

Representative Melissa G. Ballard proposes the following substitute bill:

MESSAGE THERAPY PRACTICE ACT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a license classification for:
 - a massage assistant; and
 - a massage assistant in-training;
- ▶ establishes the qualifications and scope of practice for a massage assistant and a massage assistant in-training;
- ▶ modifies massage therapist exam requirements;
- ▶ allows a massage therapist to supervise at one time up to six individuals licensed as a massage apprentice or massage assistant in-training;
- ▶ allows certain licensed individuals to supervise at one time up to six individuals licensed as a massage assistant;
- ▶ requires a massage business that employs a massage assistant or massage assistant in-training to display certain signage and provide certain disclosures; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-47b-102**, as last amended by Laws of Utah 2012, Chapter 34

33 **58-47b-301**, as last amended by Laws of Utah 2013, Chapter 278

34 **58-47b-302**, as last amended by Laws of Utah 2020, Chapter 339

35 **58-47b-303**, as enacted by Laws of Utah 1996, Chapter 76

36 **58-47b-304**, as last amended by Laws of Utah 2021, Chapter 403

37 **58-47b-305**, as last amended by Laws of Utah 1998, Chapter 159

38 **58-47b-501**, as last amended by Laws of Utah 2018, Chapter 318

39 **58-47b-502**, as last amended by Laws of Utah 1998, Chapter 159

40 ENACTS:

41 **58-47b-306**, Utah Code Annotated 1953



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

44 Section 1. Section **58-47b-102** is amended to read:

45 **58-47b-102. Definitions.**

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

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

48 (2) "Breast" means the female mammary gland and does not include the muscles,
49 connective tissue, or other soft tissue of the upper chest.

50 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
51 muscular system.

52 (4) "Massage apprentice" means an individual licensed under this chapter as a massage
53 apprentice to work under the direct supervision of a licensed massage therapist.

54 (5) "Massage assistant" means an individual licensed under this chapter as a massage
55 assistant to engage in the practice of limited massage therapy while working under the indirect
56 supervision of:

- 57 (a) a massage therapist who has:
- 58 (i) at least three years of experience as a licensee; and
- 59 (ii) engaged in the lawful practice of massage therapy for at least 3,000 hours;
- 60 (b) a physician licensed under Chapter 67, Utah Medical Practice Act;
- 61 (c) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
- 62 Practice Act;
- 63 (d) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
- 64 Act;
- 65 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
- 66 (f) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act.
- 67 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
- 68 massage assistant in-training to engage in the practice of limited massage therapy while
- 69 working under the direct supervision of a massage therapist in good standing who has engaged
- 70 in the lawful practice of massage therapy for at least 6,000 hours.
- 71 ~~(5)~~ (7) "Massage therapist" means an individual licensed under this chapter as a
- 72 massage therapist.
- 73 (8) "Practice of limited massage therapy" means:
- 74 (a) the systematic manual manipulation of the soft tissue of the body for the purpose
- 75 of:
- 76 (i) promoting the therapeutic health and well-being of a client;
- 77 (ii) enhancing the circulation of the blood and lymph;
- 78 (iii) relaxing and lengthening muscles;
- 79 (iv) relieving pain;
- 80 (v) restoring metabolic balance;
- 81 (vi) achieving homeostasis; or
- 82 (vii) other purposes;
- 83 (b) seated chair massage;
- 84 (c) body wraps;
- 85 (d) aromatherapy;
- 86 (e) reflexology; or
- 87 (f) in connection with an activity described in this Subsection (8) the use of:

88 (i) the hands;

89 (ii) a towel;

90 (iii) a stone;

91 (iv) a shell;

92 (v) a bamboo stick; or

93 (vi) an herbal ball compress.

94 ~~[(6)]~~ (9) "Practice of massage therapy" means:

95 (a) the examination, assessment, and evaluation of the soft tissue structures of the body

96 for the purpose of devising a treatment plan to promote homeostasis;

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

98 the purpose of:

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

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

101 (iii) relaxing and lengthening muscles;

102 (iv) relieving pain;

103 (v) restoring metabolic balance;

104 (vi) achieving homeostasis; or

105 (vii) other purposes;

106 (c) the use of the hands or a mechanical or electrical apparatus in connection with this

107 Subsection ~~[(6)]~~ (9);

108 (d) the use of rehabilitative procedures involving the soft tissue of the body;

109 (e) range of motion or movements without spinal adjustment as set forth in Section

110 [58-73-102](#);

111 (f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and

112 cabinet baths;

113 (g) manual traction and stretching exercise;

114 (h) correction of muscular distortion by treatment of the soft tissues of the body;

115 (i) counseling, education, and other advisory services to reduce the incidence and

116 severity of physical disability, movement dysfunction, and pain;

117 (j) similar or related activities and modality techniques;

118 (k) the practice described in this Subsection ~~[(6)]~~ (9) on an animal to the extent

119 permitted by:

120 (i) Subsection 58-28-307(12);

121 (ii) the provisions of this chapter; and

122 (iii) division rule; or

123 (l) providing, offering, or advertising a paid service using the term massage or a
124 derivative of the word massage, regardless of whether the service includes physical contact.

125 [(7)] (10) "Soft tissue" means the muscles and related connective tissue.

126 [(8)] (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

127 [(9)] (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502
128 and as may be further defined by division rule.

129 Section 2. Section 58-47b-301 is amended to read:

130 **58-47b-301. Licensure required.**

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

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

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

137 (b) represent [~~himself~~] oneself as providing a service that is within the practice of
138 massage therapy or the practice of limited massage therapy or use the word massage or any
139 other word to describe [~~such~~] the services; or

140 (c) charge or receive a fee or any consideration for providing a service that is within the
141 practice of massage therapy or the practice of limited massage therapy.

142 Section 3. Section 58-47b-302 is amended to read:

143 **58-47b-302. License classifications -- Qualifications for licensure.**

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

145 (a) massage therapist; [~~and~~]

146 (b) massage apprentice[-];

147 (c) massage assistant; and

148 (d) massage assistant in-training.

149 (2) Each applicant for licensure as a massage therapist shall:

- 150 (a) submit an application in a form prescribed by the division;
151 (b) pay a fee determined by the department under Section [63J-1-504](#);
152 (c) be 18 years [~~of age~~] old or older;
153 (d) have either:
154 (i) (A) graduated from a school of massage having a curriculum which meets standards
155 established by division rule made in collaboration with the board; or
156 (B) completed equivalent education and training in compliance with division rule; or
157 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
158 hours of supervised training over a minimum of 12 months and in accordance with standards
159 established by the division by rule made in collaboration with the board; and
160 (e) pass [~~examinations~~]:
161 (i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing
162 Examination; or
163 (ii) any other examination established by rule by the division in collaboration with the
164 board.
165 (3) Each applicant for licensure as a massage apprentice shall:
166 (a) submit an application in a form prescribed by the division;
167 (b) pay a fee determined by the department under Section [63J-1-504](#);
168 (c) be 18 years [~~of age~~] old or older;
169 (d) provide satisfactory evidence to the division that the individual will practice as a
170 massage apprentice only under the direct supervision of a licensed massage therapist in good
171 standing and who has engaged in the lawful practice of massage therapy as a licensed massage
172 therapist for not less than 6,000 hours; and
173 (e) successfully complete an examination as required by division rule.
174 (4) Each applicant for licensure as a massage assistant shall:
175 (a) submit an application in a form prescribed by the division;
176 (b) pay a fee determined by the department in accordance with Section [63J-1-504](#);
177 (c) be 18 years old or older; and
178 (d) provide satisfactory evidence to the division that:
179 (i) the individual will practice as a massage assistant only under the indirect
180 supervision of an individual described in Subsections [58-47b-102\(5\)\(a\)](#) through (f); and

181 (ii) under the supervision of an individual described in Subsections 58-47b-102(5)(a)
182 through (f), the applicant has completed:

183 (A) at least 150 hours of training under direct supervision; and

184 (B) at least 150 hours of training under indirect supervision.

185 (5) (a) Each applicant for licensure as a massage assistant in-training shall:

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

187 (ii) pay a fee determined by the department in accordance with Section 63J-1-504;

188 (iii) be 18 years old or older; and

189 (iv) provide satisfactory evidence to the division that the individual will practice as a
190 massage assistant in-training to satisfy the requirements of Subsections (4)(d)(ii)(A) and (B)
191 during a training period of no more than six months only under the direct supervision of a
192 massage therapist in good standing who has engaged in the lawful practice of massage therapy
193 for at least 6,000 hours.

194 (b) After an individual licensed as a massage assistant in-training completes the
195 training described in Subsections (4)(d)(ii)(A) and (B) during the individual's training period,
196 the division shall issue to the individual a license for a massage assistant.

197 (6) (a) A massage therapist may supervise at one time up to six individuals licensed as
198 a massage apprentice or massage assistant in-training.

199 (b) An individual described in Subsections 58-47b-102(5)(a) through (f) may supervise
200 at one time up to six individuals licensed as a massage assistant.

201 ~~[(4)]~~ (7) (a) [Any] Each new massage therapist [or], massage apprentice, massage
202 assistant, or massage assistant in-training applicant shall submit fingerprint cards in a form
203 acceptable to the division at the time the license application is filed and shall consent to a
204 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal
205 Bureau of Investigation regarding the application.

206 (b) The division shall request the Department of Public Safety to complete a Federal
207 Bureau of Investigation criminal background check for each new massage therapist [or],
208 massage apprentice, massage assistant, or massage assistant in-training applicant through the
209 national criminal history system (NCIC) or any successor system.

210 (c) The cost of the background check and the fingerprinting shall be borne by the
211 applicant.

212 [~~(5)~~] (8) (a) [~~Any~~] A new massage therapist [~~or~~], massage apprentice, massage
213 assistant, or massage assistant in-training license issued under this section shall be conditional,
214 pending completion of the criminal background check. If the criminal background check
215 discloses the applicant has failed to accurately disclose a criminal history, the license shall be
216 immediately and automatically revoked.

217 (b) [~~Any~~] A person whose conditional license has been revoked under Subsection [~~(5)~~]
218 (8)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing
219 shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

220 [~~(6)~~] (9) An applicant who successfully completes a fingerprint background check
221 under Subsection [~~(4)~~] (7) may not be required by any other state or local government body to
222 submit to a second fingerprint background check as a condition of lawfully practicing massage
223 therapy or limited massage therapy in this state.

224 Section 4. Section **58-47b-303** is amended to read:

225 **58-47b-303. Term of license -- Expiration -- Renewal.**

226 (1) (a) [~~Each~~] Except as provided in Subsection (3), each license issued under this
227 chapter shall be issued in accordance with a two-year renewal cycle established by rule.

228 (b) A renewal period may be extended or shortened by as much as one year to maintain
229 established renewal cycles or to change an established renewal cycle.

230 (2) Each license automatically expires on the expiration date shown on the license
231 unless renewed by the licensee in accordance with Section **58-1-308**.

232 (3) Each license the division issues to a massage assistant in-training expires six
233 months after the day on which the division issues the massage assistant in-training license.

234 Section 5. Section **58-47b-304** is amended to read:

235 **58-47b-304. Exemptions from licensure.**

236 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
237 individuals may engage in the practice of massage therapy or the practice of limited massage
238 therapy as defined under this chapter, subject to the stated circumstances and limitations,
239 without being licensed, but may not represent themselves as a massage therapist [~~or~~], massage
240 apprentice, massage assistant, or massage assistant in-training:

241 (a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

242 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

- 243 (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a,
244 Nurse Midwife Practice Act;
- 245 (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- 246 (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice
247 Act, while under the general supervision of a physical therapist;
- 248 (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic
249 Medical Practice Act;
- 250 (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
251 Act;
- 252 (h) a hospital staff member employed by a hospital, who practices massage as part of
253 the staff member's responsibilities;
- 254 (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;
- 255 (j) a student in training enrolled in a massage therapy school approved by the division;
- 256 (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician
257 Practice Act;
- 258 (l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy
259 Practice Act; and
- 260 (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational
261 Therapy Practice Act, while under the general supervision of an occupational therapist;
- 262 (m) an individual performing gratuitous massage; and
- 263 (n) an individual:
 - 264 (i) certified by or through, and in good standing with, an industry organization that is
265 recognized by the division and that represents a profession with established standards and
266 ethics:
 - 267 (A) who is certified to practice reflexology and whose practice is limited to the scope
268 of practice of reflexology;
 - 269 (B) who is certified to practice a type of zone therapy, including foot zone therapy, and
270 whose practice is limited to the scope of practice for which the individual is certified;
 - 271 (C) who is certified to practice ortho-bionomy and whose practice is limited to the
272 scope of practice of ortho-bionomy;
 - 273 (D) who is certified to practice bowerwork and whose practice is limited to the scope

274 of practice of bowenwork; or

275 (E) who is certified to practice a type of brain integration and whose practice is limited
276 to the scope of practice for which the individual is certified;

277 (ii) whose clients remain fully clothed from the shoulders to the knees; and

278 (iii) whose clients do not receive gratuitous massage from the individual.

279 (2) This chapter may not be construed to authorize any individual licensed under this
280 chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

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

282 (a) require insurance coverage or reimbursement for massage therapy or limited
283 massage therapy from third party payors; or

284 (b) prevent an insurance carrier from offering coverage for massage therapy or limited
285 massage therapy.

286 Section 6. Section **58-47b-305** is amended to read:

287 **58-47b-305. State and local jurisdiction.**

288 (1) (a) The division is the only agency authorized to license individuals to [practice]
289 engage in the practice of massage therapy or the practice of limited massage therapy within the
290 state or any of [its] the state's political subdivisions.

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

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

293 (ii) ordinances regulating the practice of massage therapy or the practice of limited
294 massage therapy, if the ordinances are not less stringent than this chapter.

295 (2) This chapter does not prohibit any political subdivision of the state from
296 prosecuting unlicensed individuals engaged in the practice of massage therapy or the practice
297 of limited massage therapy or from prosecuting licensed individuals who are engaged in
298 unlawful conduct.

299 Section 7. Section **58-47b-306** is enacted to read:

300 **58-47b-306. Required signage and disclosures.**

301 (1) As used in this section, "massage establishment" means an establishment in which
302 an individual lawfully engages in the practice of massage therapy.

303 (2) (a) An individual who lawfully engages in the practice of massage therapy in a
304 massage establishment shall ensure that the massage establishment prominently displays to the

305 public a sign described in Subsection (2)(b), if the individual supervises a massage assistant or
306 a massage assistant in-training engaging in the practice of limited massage therapy.

307 (b) A sign required under Subsection (2)(a) shall notify the public that certain massage
308 services offered at the massage establishment are performed by a massage assistant or a
309 massage assistant in-training.

310 (3) (a) If a massage service will be performed by a massage assistant or a massage
311 assistant in-training, the massage assistant, massage assistant in-training, or the individual
312 supervising the massage assistant or massage assistant in-training shall ensure that the
313 individual who requests the massage service is notified that the massage service will be
314 performed by a massage assistant or a massage assistant in-training.

315 (b) The appropriate licensee shall ensure that the notice described in Subsection (3)(a)
316 is provided before the individual:

- 317 (i) schedules the massage service; or
- 318 (ii) agrees to the massage service.

319 Section 8. Section **58-47b-501** is amended to read:

320 **58-47b-501. Unlawful conduct.**

321 "Unlawful conduct" includes:

322 (1) practicing, engaging in, or attempting to practice or engage in the practice of
323 massage therapy without holding a current license as a massage therapist or a massage
324 apprentice under this chapter;

325 (2) advertising or representing [~~himself as practicing~~] oneself as engaging in the
326 practice of massage therapy when not licensed to do so; [~~and~~]

327 (3) practicing, engaging in, or attempting to practice or engage in the practice of
328 limited massage therapy without holding a current license as a massage assistant or massage
329 assistant in-training under this chapter;

330 (4) advertising or representing oneself as engaging in the practice of limited massage
331 therapy when not licensed to do so; and

332 [~~(3)~~] (5) massaging, touching, or applying any instrument or device by a licensee in the
333 course of practicing or engaging in the practice of massage therapy or the practice of limited
334 massage therapy to the:

- 335 (a) genitals;

336 (b) anus; or

337 (c) breasts of a female patron, except when a female patron requests breast massage, as
338 may be further defined by division rule, and signs a written consent form, which must also
339 include the signature of a parent or legal guardian if the patron is a minor, authorizing the
340 procedure and outlining the reason for it before the procedure is performed.

341 Section 9. Section **58-47b-502** is amended to read:

342 **58-47b-502. Unprofessional conduct.**

343 "Unprofessional conduct" includes the following and may be further defined by division
344 rule:

345 (1) maintaining, operating, or assisting in the establishment or operation of any place
346 of business for the purpose of performing the practice of massage therapy or the practice of
347 limited massage therapy without first obtaining a business license, if a license is required;

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

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

351 (4) failing to properly supervise an apprentice, massage assistant, or massage assistant
352 in-training;

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

354 (6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or
355 water baths;

356 (7) prescribing or administering medicine or drugs;

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

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