

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

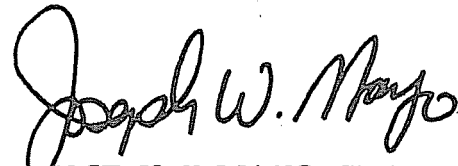
No. 1313

H.P. 982

House of Representatives, April 22, 1993

An Act to Amend the Laws Concerning Massage Therapists.

Received by the Clerk of the House on April 20, 1993. Referred to the Committee on Business Legislation and 1200 ordered printed pursuant to Joint Rule 14.


JOSEPH W. MAYO, Clerk

Presented by Representative KILKELLY of Wiscasset.
Cosponsored by Representatives: ADAMS of Portland, CARROLL of Gray, CHASE of China,
GOULD of Greenville, HOGLUND of Portland, O'GARA of Westbrook, RAND of Portland,
Senators: BUSTIN of Kennebec, PARADIS of Aroostook.

Be it enacted by the People of the State of Maine as follows:

2
3 Sec. 1. 32 MRSA §14301, sub-§3, as enacted by PL 1991, c. 403,
4 §1, is amended to read:

6 3. **Massage therapist or massage practitioner.** "Massage
7 therapist" or "massage practitioner" means a person who provides
8 or offers to provide massage therapy for a fee, monetary or
9 otherwise. This definition includes the use of different forms
10 of the term "massage therapist" or "massage practitioner," such
11 as "masseuse" or "masseur."

12
13 Sec. 2. 32 MRSA §14302, sub-§7, as enacted by PL 1991, c. 403,
14 §1, is amended to read:

16 7. **Advisory council.** The commissioner, as necessary, may
17 select members of the profession and other interested parties to
18 serve on an advisory council to advise and consult with the
19 commissioner concerning the regulation of massage therapists and
20 massage practitioners. Service on the council is not in itself a
21 conflict of interest regardless of the occupations or
22 associations of the members.

24 Sec. 3. 32 MRSA §14304, sub-§1, as enacted by PL 1991, c. 403,
25 §1, is amended to read:

26
27 1. **Registration required.** Effective January 1, 1992 1994 a
28 person, unless specifically exempted by this chapter, may not use
29 the title "registered massage therapist practitioner" or profess
30 to be a massage therapist practitioner unless registered in
31 accordance with this chapter.

32
33 Each individual using the title "registered massage therapist
34 practitioner" or professing to be a massage therapist
35 practitioner shall register with the department every year. Each
36 individual who registers shall fill out a form designated by the
37 department. Registration expires yearly on ~~December 31st or on~~
38 ~~such other date as the commissioner determines~~ the anniversary
39 date of the individual's initial registration. Notice of
40 expiration must be mailed to each registered massage therapist's
41 practitioner's last known address at least 30 days before the
42 expiration of the registration. The notice must include any
43 requests for information necessary for renewal.

44
45 A late fee of \$10 is assessed on any registration renewal that is
46 postmarked later than the anniversary date of the individual's
47 initial registration. If, after 90 days from the anniversary
48 date, an individual has not renewed the registration, the
49 individual must reapply for registration.

50
51 Sec. 4. 32 MRSA §14305, first ¶, as enacted by PL 1991, c. 403,
52 §1, is amended to read:

2 To be eligible for registration as a massage therapist
3 practitioner, an applicant must:

4 **Sec. 5. 32 MRSA §14305, sub-§§3 and 5,** as enacted by PL 1991,
5 c. 403, §1, are amended to read:

6
7 **3. Doctor's certificate.** Present a written statement from
8 a licensed physician licensed to practice in the State stating
9 that the applicant has been examined and found to be free of an
10 infectious or communicable disease and showing that there is no
11 evidence of a communicable disease that would likely be
12 transmitted to a client through the techniques of massage. The
13 statement must also show that the examination was conducted
14 within 60 days prior to the submission of the application;

15
16 **5. References.** Present 3 character references citing that
17 the applicant is of good moral character, one of which must be
18 from a health care provider who is not a massage therapist or
19 massage practitioner;

20
21 **Sec. 6. 32 MRSA §14306,** as enacted by PL 1991, c. 403, §1, is
22 repealed.

23
24 **Sec. 7. 32 MRSA §§14306-A and 14306-B** are enacted to read:

25
26 **§14306-A. Certification**

27
28 **1. Certification required.** Effective January 1, 1994, a
29 person, unless specifically exempted by this chapter, may not use
30 the title "certified massage therapist" or profess to be a
31 massage therapist unless certified in accordance with this
32 chapter.

33
34 Each individual using the title "certified massage therapist" or
35 professing to be a massage therapist shall apply to be certified
36 by the department every year. Each individual who applies for
37 certification shall fill out a form designated by the
38 department. Certification expires on the anniversary of the date
39 of the initial application or on such other date as the
40 commissioner determines. Notice of expiration must be mailed to
41 each certified massage therapist's last known address at least 30
42 days before the expiration of the certification and must request
43 any information necessary for renewal.

44
45 A late fee of \$10 is assessed on any certification renewal that
46 is postmarked later than the anniversary date of the individual's
47 initial certification. If, after 90 days from the anniversary
48 date, an individual has not renewed the certification, the
49 individual is required to reapply for certification.

2 2. Individual certification. Only an individual may be
certified under this chapter.

4 **§14306-B. Requirements for certification**

6 To be eligible for certification as a massage therapist, an
applicant must:

8 1. Proof of knowledge. Pass the National Certification
10 Examination for Therapeutic Massage and Bodywork administered by
the Psychological Corporation or have a diploma from a school of
12 massage therapy that is accredited by the American Massage
Therapy Association;

14 2. Age. Be at least 18 years of age;

16 3. High school. Possess a high school diploma or its
18 equivalent;

20 4. Photograph. Furnish to the department a signed
22 photograph of the applicant. The photograph must be a minimum
size of 5 inches by 3 inches; and

24 5. Fee. Pay a one-time application fee of \$25 and a yearly
26 certification fee of \$100. All fees are nonrefundable.

28 **Sec. 8. 32 MRSA §§14307 and 14308,** as enacted by PL 1991, c.
403, §1, are amended to read:

30 **§14307. Exemptions to registration or certification**

32 1. Other professionals. This chapter does not apply to the
34 activities or services of members of other professions licensed,
certified or registered by the State, including, but not limited
36 to, physicians, chiropractors, physical therapists,
cosmetologists or registered nurses performing soft tissue
38 manipulation consistent with the laws of the State governing
their practices, provided they do not use the title "massage
therapist" or "massage practitioner."

40 2. Other exemptions. This chapter does not apply to the
42 activities and services of individuals who practice other forms
of tissue work exclusive of massage therapy, such as rolfing,
44 Trager, reflexology, Shiatsu, Reiki and polarity, if those
practitioners do not use the title "massage therapist" or
46 "massage practitioner," unless they choose to meet the
requirements of this chapter.

48 **§14308. Disciplinary action; grounds; procedure; complaints**

50 1. Grounds. The commissioner may suspend, revoke or refuse
52 to renew registration or certification under the same grounds as

2 contained in Title 5, section 10004. In addition, the
3 commissioner may take the same action granted to bureaus, boards
4 and commissions pursuant to Title 10, section 8003, subsection
5. The commissioner's actions may be based on any of the
6 following grounds:

7 A. The practice of fraud or deceit in obtaining
8 registration or certification status under this chapter or
9 in connection with service rendered within the scope of the
10 registration or certificate issued;

11 B. Habitual intemperance in the use of alcohol or the
12 habitual use of narcotic or other drugs that has resulted in
13 the regulated person being unable to perform necessary
14 duties or performing those duties in a manner that would
15 endanger the health or safety of clients;

16 C. A current medical finding of mental incompetence that
17 affects the registrant's or certified person's ability to
18 perform ~~the--registrant's~~ that person's occupation in a
19 healthy and safe manner;

20 D. Aiding or abetting persons not duly registered or
21 certified under this chapter who profess to be registered or
22 certified;

23 E. Subject to the limitations of Title 5, chapter 341,
24 conviction of a crime that involves dishonesty or false
25 statement or that directly relates to the practice of
26 massage therapy or conviction of a crime for which
27 incarceration for one year or more may be imposed;

28 F. Revocation in any state of a professional or
29 occupational license, certification or registration for
30 disciplinary reasons, or rejection of any application for
31 reasons related to untrustworthiness, within 3 years of the
32 date of application; and

33 G. Violating any provisions of this chapter or any rule of
34 the department.

35
36
37
38
39
40
41
42 **2. Procedure.** Except as provided in Title 5, section
43 10004, a registration or certification may not be denied,
44 suspended, revoked or refused for renewal for the reasons set
45 forth in subsection 1 without prior written notice and
46 opportunity for hearing on that denial, suspension or
47 revocation. A registration or certification may not be denied,
48 suspended or revoked under this section except by a decision of
49 the commissioner or the commissioner's designee.

50
51
52 **3. Complaints.** Any person may file a complaint with the
commissioner seeking disciplinary action against a massage

2 therapist or massage practitioner concerning violations of this
chapter or rules adopted by the department. Complaints must be
4 in writing. If the commissioner determines that a complaint
alleges facts that, if true, would require denial, revocation,
6 suspension or nonrenewal or other disciplinary action of a
registered therapist or certified practitioner, the commissioner
or the commissioner's designee may conduct a hearing pursuant to
8 the Maine Administrative Procedure Act. Whenever the
commissioner establishes that a complaint does not state facts
10 that warrant action, the complaint may be dismissed.

12 The commissioner shall conduct proceedings under this subsection
in accordance with the provisions of Title 5, chapter 375,
14 subchapter IV.

16 **Sec. 9. 32 MRSA §14310**, as enacted by PL 1991, c. 403, §1, is
amended to read:

18 **§14310. Home rule**

20 Nothing in this chapter prohibits a municipality from
22 adopting or enforcing an ordinance that regulates massage,
massage practitioners or massage therapists. If a municipality
24 adopts such an ordinance, an individual must comply with the
provisions of this chapter and any provision of the local
26 ordinance that is more restrictive than this chapter.

28 **Sec. 10. 32 MRSA §14311** is enacted to read:

30 **§14311. Reciprocity**

32 Reciprocity is granted to individuals from other states as
long as they meet the requirements of this chapter for status as
34 certified massage therapists or registered massage practitioners
and show proof of current certification or registration from
36 their states.

40 **STATEMENT OF FACT**

42 This bill expands the definition of massage therapist to
include massage practitioner and imposes certain requirements for
44 the certification and registration of both. The bill requires
massage therapists, who under existing law must be registered, to
46 be certified effective January 1, 1994. Certification
requirements include passing a national certification examination
48 or graduation from a school of massage therapy accredited by the
American Massage Therapy Association. Massage practitioners,
50 however, must meet the qualifications currently required for
massage therapists except that the required physician's
52 certificate need not be issued by a physician licensed within

2 this State and the health standards for the issuance of a
certificate are changed.

4 This bill also:

6 1. Repeals existing provisions that disallow the
8 registration of any individual whose certification or
registration has been revoked;

10 2. Makes administrative changes relative to registration
12 and certification by changing expiration dates, assessing \$10
14 late fees in certain applications and requiring reapplication 90
days after a registration or certification has lapsed; and

16 3. Adds reciprocity provisions to allow certified massage
therapists and registered massage practitioners from other states
to practice in this State.