

# 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)



# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

---

Legislative Document

No. 1525

---

S.P. 494

In Senate, March 18, 1997

---

**An Act to License Massage Therapists under the Board of  
Complementary Health Care Providers.**

---

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.  
Cosponsored by Representative WATSON of Farmingdale and  
Senators: JENKINS of Androscoggin, TREAT of Kennebec, Representatives: GAGNON of  
Waterville, POVICH of Ellsworth, USHER of Westbrook.

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

2  
4       **Sec. 1. 5 MRSA §12004-I, sub-§72-B**, as enacted by PL 1993, c.  
381, §7, is repealed.

6       **Sec. 2. 32 MRSA §12501, sub-§§6-A and 6-B** are enacted to read:

8       **6-A. Massage therapist or massage practitioner.** "Massage  
10 therapist" or "massage practitioner" means a person who provides  
12 or offers to provide massage therapy for a fee, monetary or  
14 otherwise. This definition includes the use of different forms  
16 of the term "massage therapist" or "massage practitioner," such  
18 as "masseuse" or "masseur."

20       **6-B. Massage therapy.** "Massage therapy" means a scientific  
22 or skillful manipulation of soft tissue for therapeutic or  
24 remedial purposes, specifically for improving muscle tone and  
26 circulation and promoting health and physical well-being. The  
28 term includes, but is not limited to, manual and mechanical  
30 procedures for the purpose of treating soft tissue only, the use  
32 of supplementary aids such as rubbing alcohol, liniments, oils,  
34 antiseptics, powders, herbal preparations, creams or lotions,  
36 procedures such as oil rubs, salt glows and hot or cold packs or  
38 other similar procedures or preparations commonly used in this  
40 practice. This term specifically excludes manipulation of the  
42 spine or articulations and excludes sexual contact as defined in  
44 Title 17-A, section 251, subsection 1, paragraph D.

46       **Sec. 3. 32 MRSA §12502, sub-§§1 and 5**, as enacted by PL 1995,  
48 c. 671, §13, are amended to read:

50       **1. Membership.** The Board of Complementary Health Care  
52 Providers, as established in Title 5, section 12004-A, subsection  
54 8-A, shall regulate the professions of acupuncture, massage  
56 therapy and naturopathic medicine according to the provisions of  
58 this chapter. The board consists of 7 9 members appointed by the  
60 Governor. The Governor shall make the initial appointments to  
62 the board no later than 60 days after the effective date of this  
64 section and shall inform the Commissioner of Professional and  
66 Financial Regulation of these appointments. The commissioner  
68 shall call the first meeting of the board on a date no later than  
70 30 days following notification of appointments by the Governor.  
72 All members of the board must be residents of this State. Two  
74 members of the board must be practitioners of massage therapy who  
76 are eligible for licensure under, or are licensed pursuant to,  
78 the requirements of subchapter IV. Two members of the board must  
80 be acupuncturists licensed in this State. Two members of the  
82 board must be practitioners of naturopathic medicine who are  
84 eligible for licensure under, or are licensed pursuant to, the

2 requirements of subchapter III. One member must be a member of  
3 the public who is not a practitioner of any healing art or has no  
4 family connection with such a practitioner. One member must be  
5 an allopathic or osteopathic physician who is licensed in this  
6 State. One member must be a pharmacist who is licensed in this  
7 State.

8 5. **Quorum.** ~~Four~~ Five members of the board constitute a  
9 quorum for the transaction of business.

10 **Sec. 4. 32 MRSA §12503, sub-§1, ¶¶B, C, D and G,** as enacted by  
11 PL 1995, c. 671, §13, are amended to read:

12 B. Set standards of practice for acupuncturists, massage  
13 therapists and naturopathic doctors;

14 C. Determine fees for application for licensure, for  
15 initial licensure and for renewal within fee caps  
16 established by sections 12514, 12516 and, 12526 and 12534;

17 D. Ensure that acupuncturists, massage therapists and  
18 naturopathic doctors serving the public meet minimum  
19 standards of proficiency and competency to protect the  
20 health, safety and welfare of the public;

21 G. Maintain a roster of all acupuncturists, massage  
22 therapists and naturopathic doctors licensed under this  
23 chapter that indicates:

24 (1) The name of the licensee;

25 (2) The licensee's current professional office address;

26 (3) The date of issuance and the number of the  
27 licensee's license; and

28 (4) Whether the licensee is in good standing with the  
29 board including:

30 (a) Any specialty certification required by the  
31 board;

32 (b) Any restrictions or limitations to an  
33 individual's license;

34 (c) A record of any revocations or suspensions;  
35 and

36 (d) Any information that the board directs must  
37 be included in a member's record;

2           **Sec. 5. 32 MRSA §12503, sub-§6, ¶¶A, C, D and F**, as enacted by  
PL 1995, c. 671, §13, are amended to read:

4  
6           A. The practice of fraud or deceit in obtaining a license  
under this chapter or in connection with services rendered  
as an acupuncturist, massage therapist or naturopathic  
8           doctor;

10          C. Aiding or abetting a person, not duly licensed under  
this chapter, in claiming to be an acupuncturist, massage  
12          therapist or naturopathic doctor;

14          D. Any gross negligence, incompetence or misconduct in the  
performance of acupuncture, massage therapy or naturopathic  
16          medicine;

18          F. Any other good cause, relevant to qualifications to  
practice acupuncture, massage therapy or naturopathic  
20          medicine.

22           **Sec. 6. 32 MRSA §12504**, as enacted by PL 1995, c. 671, §13,  
is amended to read:

24           **§12504. Unauthorized employment**

26           A person in the course of business may not employ an  
28           acupuncturist, massage therapist or naturopathic doctor who does  
not have a license unless that person is a student or intern  
30           within the meaning of this chapter.

32           **Sec. 7. 32 MRSA c. 113-B, sub-c. IV** is enacted to read:

34                           SUBCHAPTER IV

36                   MESSAGE THERAPY LICENSING REQUIREMENTS AND SCOPE OF PRACTICE

38           **§12531. Licensing**

40           1. Licensing. Beginning on the effective date of this  
42           section, a person may not, unless specifically exempted by this  
subchapter, profess to be a massage therapist or massage  
44           practitioner unless licensed in accordance with this subchapter.

46           2. Individual licensing. Only an individual who is  
48           qualified under this subchapter may be issued a license to  
practice massage therapy.

2 **§12532. Exemptions to licensure**

4 **1. Other professionals.** This subchapter does not apply to  
6 the activities or services of members of other professions  
8 licensed, certified or registered by the State, including, but  
10 not limited to, physicians, chiropractors, physical therapists,  
cosmetologists or registered nurses performing soft tissue  
manipulation consistent with the laws of the State if the members  
of those professions do not use the title "massage therapist" or  
"massage practitioner."

12 **2. Other exemptions.** This subchapter does not apply to the  
14 activities and services of individuals who practice other forms  
16 of tissue work exclusive of massage therapy, such as Rolfing,  
18 Trager, reflexology, shiatsu, reiki and polarity, if those  
practitioners do not use the title "massage therapist" or  
"massage practitioner," unless they choose to meet the  
requirements of this chapter.

20 **§12533. Requirements for licensure**

22 An applicant must be 18 years of age or older and  
24 satisfactorily pass any examination the board may prescribe to be  
eligible for a license to practice massage therapy at any level.  
26 Each applicant shall demonstrate competence to engage in the  
practice of massage therapy in a manner that safeguards the  
interests of the public.

28 **1. Requirements.** The following requirements are considered  
30 minimum evidence satisfactory to the board that an applicant is  
qualified for licensure under this subchapter:

32 **A.** Pass the National Certification Examination for  
34 Therapeutic Massage and Bodywork administered by the  
Psychological Corporation or its successor organization or  
36 have a diploma from a school of massage therapy that is  
accredited by the Commission on Massage Training  
38 Accreditation/Approval or its successor organization;

40 **B.** Be 18 years of age or older;

42 **C.** Possess a high school diploma or its equivalent; and

44 **D.** Furnish to the department a signed photograph of the  
46 applicant. The photograph must be a minimum of 5 inches by  
3 inches.

48 **2. Existing certified massage therapists.** Upon renewal of  
licensure pursuant to section 12535, a person who remits  
50 appropriate fees within one year after the effective date of this  
section may be licensed by the board.

2           3. Existing registered massage practitioners. A massage  
3 practitioner may use the title of "registered massage  
4 practitioner" to practice massage therapy pursuant to the  
5 biennial renewal process under section 12535 until December 31,  
6 1999.

8           A. The applicant has until December 31, 1999 to show  
9 satisfactory evidence of having used or been identified by  
10 the title "massage practitioner" and has a combination of  
11 massage therapy education and appropriate diversified  
12 experience totaling 5 years or 500 hours. If a massage  
13 practitioner has 500 hours or less of massage therapy  
14 education, then one year of massage therapy experience  
15 acceptable to the board may be substituted for each 100  
16 hours of massage therapy education required. A person is  
17 considered to have used or been identified by the title  
18 "massage practitioner" if the person demonstrates to the  
19 satisfaction of the board that the person was either  
20 self-employed as a massage practitioner or, in the course of  
21 regular employment, rendered or offered to render to another  
22 person massage therapy services.

24           B. Beginning on the effective date of this section, new  
25 applications for "registered massage practitioner" may not  
26 be accepted or approved by the Department of Professional  
27 and Financial Regulation or the board.

28           4. License not allowed. An individual whose license to  
29 practice massage therapy or any other related field has been  
30 revoked or suspended in this State or any other state may not be  
31 licensed under this section, unless the period of revocation or  
32 suspension has been completed and the board has conducted a  
33 competency review and determined that an acceptable degree of  
34 rehabilitation has been accomplished.

36           **§12534. Fees**

38           1. Amount. Reasonable and necessary application and  
39 examination fees may be established by the board. License fees  
40 may not exceed the following amounts:

42           A. A one-time application fee of \$25 and a biennial  
43 licensing fee of \$100. All fees are nonrefundable.

46           **§12535. Terms of licenses**

48           1. Biennial renewal. Licenses expire biennially or 24  
49 months following date of issuance or on such other date as the  
50 board determines. Notice of expiration must be mailed to each

2 licensee's last known address at least 30 days in advance of the  
3 expiration of a license. The notice must include any requests  
4 for information necessary for renewal.

5 A license may be renewed up to 90 days after the date of  
6 expiration upon payment of a late fee of \$10 in addition to the  
7 renewal fee. Any person who submits an application for renewal  
8 more than 90 days after the license renewal date is subject to  
9 all requirements governing new applicants under this subchapter.

10 2. Continuing education and supervision. The board, by  
11 rule, may establish continuing education and supervision  
12 requirements. An applicant for a renewal of a license must show  
13 proof of satisfying the continuing education requirements set  
14 forth by the board. Rules adopted pursuant to this subsection are  
15 routine technical rules as defined in Title 5, chapter 375,  
16 subchapter II-A.

17 **Sec. 8. 32 MRSA c. 127 is repealed.**

18  
19  
20  
21 **SUMMARY**

22  
23  
24 This bill repeals the 2-tier certification or registration  
25 structure for massage therapists and expands the authority of the  
26 Board of Complementary Health Care Providers to include  
27 regulation of massage therapists.

28  
29 To qualify for licensure a person must have passed the  
30 National Certification Examination for Therapeutic Massage and  
31 Bodywork or have a diploma from a school of massage therapy that  
32 is accredited by the Commission on massage Training  
33 Accreditation/Approval or its successor organization. Provisions  
34 are outlined for existing massage practitioners to obtain  
35 licensure.

36  
37 Any joint standing committee of the Legislature that  
38 recommends to the Legislature the regulation of an occupational  
39 profession not previously regulated must include an evaluation of  
40 the need for regulation pursuant to the Maine Revised Statutes,  
41 Title 5, section 12015, subsection 3.  
42