

Introduced by

Industry, Business and Labor Committee

(At the request of the North Dakota Board of Massage)

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and
2 section 43-25-08.1 of the North Dakota Century Code, relating to criminal history record checks
3 for massage therapists; and to amend and reenact sections 43-25-05, 43-25-09, 43-25-10,
4 43-25-14, and 43-25-18 of the North Dakota Century Code, relating to massage therapist
5 licensure.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
8 Century Code is created and enacted as follows:

9 The North Dakota board of massage for applicants, licensees, or investigations
10 under chapter 43-25, except that criminal history checks need not be made
11 unless required by the board.

12 **SECTION 2. AMENDMENT.** Section 43-25-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-25-05. Board of massage - Terms.**

15 The governor shall appoint a board of massage, to consist of five members. Three of the
16 members of the board must be massage therapists who are licensed in this state and actively
17 practicing massage in this state for at least the previous three years. The members must be
18 appointed for three years, staggered so that the term of one member expires each year. Two
19 additional members, who may not be massage therapists or immediate family members of a
20 massage therapist, nor have a direct and substantial financial interest in massage therapy, must
21 be appointed as consumer members for two-year terms, staggered so that the term of one
22 member expires each year. Each member of the board holds office until that member's
23 successor is appointed and qualified. Any member appointed to a term beginning after June 30,
24 2013, may only serve for a total of six consecutive years, after which that member may not be

1 reappointed unless a period of two years has passed since that member last served on the
2 board.

3 Within one month after appointment of a new member, the board shall meet at some
4 convenient place within the state and shall annually elect a president, vice president, and
5 secretary-treasurer. The secretary-treasurer must be bonded in the sum of one thousand dollars
6 for the faithful discharge of the secretary-treasurer's duties.

7 **SECTION 3.** Section 43-25-08.1 of the North Dakota Century Code is created and enacted
8 as follows:

9 **43-25-08.1. Criminal history record checks.**

10 The board may require any applicant or licensee under this chapter to submit to a statewide
11 and nationwide criminal history record check. The nationwide criminal history record check must
12 be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a
13 background check are the responsibility of the applicant or licensee.

14 **SECTION 4. AMENDMENT.** Section 43-25-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-25-09. License - Display - Renewal - Renewal fee.**

- 17 1. Each license must be conspicuously displayed at the place of practice.
- 18 2. On or before January first of each year, each licensed massage therapist shall pay to
19 the secretary-treasurer of the board a renewal fee of one hundred dollars or a lesser
20 amount established by the board.
- 21 3. Continuing education of at least ~~thirty-two~~twenty-four continuing education hours, or
22 equivalent college credits, including at least three hours of ethics, submitted every two
23 years is a further requirement for renewal of the license. The board may accept
24 continuing education attained by remote means. No more than ~~twelve~~nine hours of a
25 licensee's renewal hours may be by remote means. To qualify as continuing
26 education, the remote education must be board-approved for content and suitability.
 - 27 a. Odd-numbered licensed individuals report their continuing education in
28 odd-numbered years and even-numbered licensed individuals report their
29 continuing education in even-numbered years, based on the calendar year.
 - 30 b. ~~This subdivision applies for the~~Licensed individuals during their initial licensure
31 ~~period. Individuals licensed on or before May thirty-first of their initial year, who~~

1 would normally are not required to report hours of continuing education, based on
2 their license number being odd or even, would need to report at least sixteen
3 hours. Those not required to submit continuing education that initial January first
4 would report at least twenty-four hours by the following January first. Individuals
5 licensed after May thirty-first of their initial year, who would normally report hours
6 of continuing education, based on their license number being odd or even would
7 not be required to report that cycle, but would report at least forty-eight hours for
8 the next cycle. Those not required to submit continuing education hours that
9 initial January first would report at least sixteen hours by the following January
10 first. Thereafter, ~~initial~~the licensees would follow the normal renewal reporting
11 eye~~shall~~report continuing education pursuant to subdivision a.

12 c. The board may grant an individual waiver based on health issues or other good
13 cause deemed sufficient by the board.

14 4. If the board reasonably believes a massage therapist or applicant is ~~in~~has a physical
15 or mental condition jeopardizing the health of those who seek relief from the individual,
16 the board may require the individual to have a ~~physical~~an appropriate examination by
17 a ~~competent medical~~qualified examiner approved by the board. If the individual has
18 had or has any communicable disease sufficient to disqualify the applicant to practice
19 massage in the state, the board shall deny a license until the individual furnishes due
20 proof of being physically and mentally competent and sound.

21 5. A holder of an expired license may within one year from the date of its expiration have
22 the license renewed upon payment of the required renewal fee. The board may
23 require production of a new certificate of physical examination and evidence of any
24 required continued educational hours being completed.

25 6. All licenseholders must be designated as licensed massage therapists and may not
26 use any title or abbreviation without the designation "massage therapist".

27 **SECTION 5. AMENDMENT.** Section 43-25-10 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-25-10. Disciplinary actions - Complaints.**

30 1. The license of a massage therapist may be denied, revoked, suspended, or placed on
31 probation for any of the following grounds:

- 1 a. The licensee is guilty of fraud in the practice of massage or fraud or deceit in
2 admission to the practice of massage.
- 3 b. The licensee has been convicted of an offense determined by the board to have
4 a direct bearing upon a person's ability to serve the public as a massage
5 therapist, or, following conviction of any offense, the person is not sufficiently
6 rehabilitated under section 12.1-33-02.1. The conviction of an offense includes
7 conviction in any jurisdiction in the United States of any offense, which if
8 committed within this state would constitute an offense under this state's laws.
- 9 c. The licensee is engaged in the practice of massage under a false or assumed
10 name, or is impersonating another practitioner of a like or different name.
- 11 d. The licensee is addicted to the habitual use of intoxicating liquors, or other legal
12 or illegal drugs, to the extent the licensee is compromised or impaired from
13 performing the professional duties of a massage therapist or is under the
14 influence while assessing, treating, or seeing a client.
- 15 e. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising,
16 the licensee prescribes medicines, drugs, or the licensee infringes on any other
17 licensed profession.
- 18 f. The licensee is guilty of gross negligence in the practice of massage, or is guilty
19 of employing, allowing, or permitting any unlicensed person to perform massage
20 in the licensee's establishment.
- 21 g. The licensee has violated this chapter or any rule adopted by the board.
- 22 2. A licensee who violates this chapter or any rule adopted by the board may be
23 assessed a civil penalty of up to ~~one~~two hundred dollars.
- 24 3. A complaint may be submitted to the board by any person or on its own motion. A
25 complaint ~~may~~must be signed by the complainant. The president may initiate an
26 investigation of the complaint and report to the board.
- 27 4. Any hearing regarding a disciplinary action or a denial of a license must be held
28 pursuant to chapter 28-32.

29 **SECTION 6. AMENDMENT.** Section 43-25-14 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-25-14. Compensation of board members - Clerks.**

2 The board members shall receive compensation for an in-person meeting in an amount to
3 be established by rule not to exceed one hundred dollars per day or prorated for partial days the
4 member is actually engaged in the performance of other meetings and official duties and
5 payment for mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

6 **SECTION 7. AMENDMENT.** Section 43-25-18 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-25-18. Reciprocity.**

- 9 1. Any person who has been duly licensed and is in good standing in another state to
10 practice massage in a state that meets required educational hours and requirements
11 in this state, and who has been lawfully and continuously engaged in licensed practice
12 for two years or more immediately before filing of an application to practice in this
13 state, and who submits to the board a duly attested certificate from the examining
14 board of the state in which ~~registered~~licensed, certifying to the fact of
15 ~~registration~~licensure and being a person of good moral character and of professional
16 attainments, may upon paying a fee of one hundred fifty dollars or a lesser fee set by
17 the board be granted a license to practice in this state without being required to take
18 an examination.
- 19 2. An applicant for licensure by reciprocity who has been duly licensed and is in good
20 standing to practice massage in a state with substantially similar licensure standards
21 as determined by the board and who has been lawfully and continuously engaged in
22 licensed practice for five years or more immediately before filing of an application to
23 practice in this state, may be granted a license by the board without being required to
24 take an examination if the applicant otherwise meets all of the requirements of
25 subsection 1.