

Senate Bill 110

By: Senators Unterman of the 45th, Thomas of the 54th and Smith of the 52nd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to regulation of  
2 professions and businesses, so as to add a new Chapter 24A regulating the practice of  
3 massage therapy; to provide a short title; to provide legislative findings and intent; to provide  
4 for certain definitions; to create the Georgia Board of Massage Therapy; to provide for  
5 membership on the board; to provide for meetings of the board; to provide for powers of the  
6 board; to provide for licensure of massage therapists; to provide for provisional permits; to  
7 provide for applications under oath; to provide for licensing examinations; to provide for  
8 requirements relating to a license; to provide for violations; to prohibit the unauthorized  
9 practice of massage therapy; to provide for disciplinary actions; to provide for administrative  
10 procedures; to provide for exceptions; to provide for continuing education requirements; to  
11 provide for cumulative remedies; to provide for other jurisdictions; to provide for taxation;  
12 to provide for related matters; to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Title 43 of the Official Code of Georgia Annotated, relating to regulation of professions and  
16 businesses, is amended by adding a new Chapter 24A to read as follows:

17 **"CHAPTER 24A**

18 43-24A-1.

19 This chapter shall be known and may be cited as the 'Georgia Massage Therapy Practice  
20 Act.'

21 43-24A-2.

22 The General Assembly acknowledges that the practice of massage therapy affects the  
23 public health, safety, and welfare. Massage therapists must have a knowledge of anatomy  
24 and physiology and an understanding of the relationship between the structure and function

1 of the tissue being treated and the total function of the body. Massage is therapeutic and  
2 regulations are necessary to protect the public from unqualified practitioners. It is in the  
3 interest of the public to set standards of qualifications, education, training, and experience  
4 for those who seek to practice massage therapy; to promote high standards of professional  
5 performance for those licensed to practice massage therapy; and to protect the public from  
6 unprofessional conduct by persons licensed to practice massage therapy.

7 43-24A-3.

8 As used in this chapter, the term:

9 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any  
10 card, sign, or other device or causing or permitting any sign or marking on or in any  
11 building or structure, or in any newspaper, magazine, or directory, or announcement on  
12 radio, or announcement or display on television, computer network, or electronic or  
13 telephonic medium.

14 (2) 'Applicant' means any person seeking a license under this chapter.

15 (3) 'Board' means the Georgia Board of Massage Therapy established by this chapter.

16 (4) 'Board recognized massage program' means an educational program which meets the  
17 standards for training and curriculum as set out by the board in its rules which are  
18 consistent with the Nonpublic Postsecondary Education Commission as provided in Code  
19 Section 20-3-250.4.

20 (5) 'License' means a valid and current certificate of registration issued by the board.

21 (6) 'Licensee' means any person holding a license.

22 (7) 'Massage therapist' means a person who administers massage or massage therapy for  
23 compensation.

24 (8) 'Massage therapy' means the application of a system of structured touch, pressure,  
25 movement, and holding to the soft tissue of the body in which the primary intent is to  
26 enhance or restore health and well-being. The term includes complementary methods,  
27 including without limitation the external application of water, superficial heat, superficial  
28 cold, lubricants, salt scrubs, or other topical preparations and the use of commercially  
29 available electromechanical devices which do not require the use of transcutaneous  
30 electrodes and which mimic or enhance the actions possible by the hands; the term also  
31 includes determining whether massage therapy is appropriate or contraindicated, or  
32 whether referral to another health care provider is appropriate. Massage therapy shall not  
33 include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal  
34 modalities.

35 (9) 'Person' means a natural person only.

1 (10) 'Provisionally permitted massage therapist' means a person issued a provisional  
2 permit under this chapter.

3 43-24A-4.

4 (a) There is created the Georgia Board of Massage Therapy which shall consist of five  
5 members. The board shall be assigned to the Secretary of State's office for administrative  
6 purposes and shall be under the jurisdiction of the division director and shall operate in  
7 accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable.

8 (b) The Governor shall appoint, subject to confirmation by the Senate, all members of the  
9 board for initial terms of office beginning July 1, 2005. The Governor shall appoint two  
10 initial members of the board to serve for terms of two years and three initial members of  
11 the board, including the public member, to serve for terms of four years. After the initial  
12 terms specified in this subsection, members of the board shall take office on the first day  
13 of July immediately following the expired term of that office and shall serve for a term of  
14 four years and until their successors are appointed and qualified. Any person appointed to  
15 the board when the Senate is not in session may serve on the board without Senate  
16 confirmation until the Senate acts on that appointment. No member shall serve on the board  
17 for more than two full consecutive terms. Any vacancy due to death, resignation, removal,  
18 or otherwise shall be filled for the remainder of the unexpired term in the same manner as  
19 regular appointments.

20 (c) All members of the board shall be reimbursed as provided for in subsection (f) of Code  
21 Section 43-1-2.

22 (d) An appointee to the board shall qualify by taking an oath of office within 15 days from  
23 the date of his or her appointment. On presentation of the oath, the Secretary of State shall  
24 issue a commission to each appointee as evidence of his or her authority to act as a member  
25 of the board.

26 43-24A-5.

27 (a)(1) There shall be four professional members of the board who shall:

28 (A) Be citizens of the United States and residents of this state for at least three years  
29 prior to the date of appointment;

30 (B) Have been engaged in massage therapy practice for compensation for at least five  
31 years immediately preceding their appointment; and

32 (C) Be eligible for licensure under this chapter. Effective July 1, 2006, and thereafter,  
33 all professional members of the board shall be licensed under this chapter.

34 (2) No more than one professional member of the board may be an owner of or affiliated  
35 with any massage school.

1 (b) There shall be one consumer member of the board who shall be appointed by the  
2 Governor from the public at large, shall be a citizen of the United States and resident of this  
3 state, and shall be a person to whom neither this state nor any other state or jurisdiction or  
4 organization has ever issued a certificate, registration, license, or permit to engage in the  
5 practice of massage therapy nor be an owner of or affiliated with any massage school.

6 (c) The Governor, after notice and opportunity for hearing, may remove any member of  
7 the board for incompetence, neglect of duty, unprofessional conduct, conviction of a  
8 felony, failure to meet the qualifications of this chapter, or committing any act prohibited  
9 by this chapter.

10 43-24A-6.

11 The board shall meet at least once each year at a time fixed by the board. At its annual  
12 meeting, the board shall elect from its members a chairperson, vice chairperson, and any  
13 other officers as deemed necessary who shall hold office for a term of one year.  
14 Additionally, the board may appoint such committees as it considers necessary to fulfill its  
15 duties. In addition to its annual meeting, the board may hold additional meetings at the call  
16 of the chairperson or at the request of any two members of the board or as approved by the  
17 division director.

18 43-24A-7.

19 (a) The board shall have the power to:

20 (1) Examine and determine the qualifications and fitness of applicants for licenses to  
21 practice massage therapy in this state;

22 (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage  
23 therapy in this state or otherwise discipline licensed massage therapists;

24 (3) Conduct investigations for the purpose of discovering violations of this chapter or  
25 grounds for disciplining persons licensed under this chapter;

26 (4) Hold hearings on all matters properly brought before the board and, in conjunction  
27 therewith, to administer oaths, receive evidence, make the necessary determinations, and  
28 enter orders consistent with the findings. The board may designate one or more of its  
29 members as its hearing officer;

30 (5) Adopt, revise, and enforce rules concerning advertising by licensees including, but  
31 not limited to, rules to prohibit false, misleading, or deceptive practices;

32 (6) Adopt an official seal; and

33 (7) Bring proceedings to the courts for the enforcement of this chapter or any rules and  
34 regulations promulgated pursuant to this chapter.

1 (b) In addition to the enumerated powers in subsection (a) of this Code section, the board  
2 has the authority to conduct its business pursuant to the provisions of Code Section 43-1-19  
3 which is incorporated herein and made a part of this chapter by specific reference.

4 43-24A-8.

5 (a) No person may practice massage therapy in this state who is not a licensed massage  
6 therapist or the holder of a valid provisional permit issued by the division director pursuant  
7 to this chapter.

8 (b) Prior to July 1, 2007, any applicant for a license as a massage therapist must submit a  
9 completed application upon a form and in such manner as the board prescribes,  
10 accompanied by applicable fees, and evidence satisfactory to the board that:

11 (1) The applicant is at least 18 years of age;

12 (2) The applicant is of good moral character. For purposes of this paragraph, 'good  
13 moral character' means professional integrity and a lack of any conviction for acts  
14 involving moral turpitude where the underlying conduct relates to the applicant's fitness  
15 to practice massage therapy;

16 (3) The applicant agrees to provide the board with any and all information necessary to  
17 perform a criminal background check and expressly consents and authorizes the board  
18 or its representative to perform such a check; and

19 (4) The applicant has met at least one of the following requirements:

20 (A) He or she has completed successfully a board recognized educational program with  
21 a minimum of 500 hours of course and clinical work;

22 (B) He or she has passed satisfactorily the National Certification Examination for  
23 Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an  
24 examination administered by another state or jurisdiction whose license requirements  
25 meet or exceed those of this state;

26 (C) He or she meets the qualifications necessary to sit for the National Certification  
27 Examination for Therapeutic Massage and Bodywork or has substantially similar  
28 qualifications as determined by the board;

29 (D) He or she holds a license as a massage therapist in another state or jurisdiction  
30 whose license requirements meet or exceed the licensing requirements of this state;

31 (E) He or she has practiced massage therapy for at least ten hours per week on average  
32 for at least ten years prior to the date of application and has completed at least 100  
33 hours of formal training in massage therapy as determined by the board;

34 (F) He or she has practiced massage therapy for at least five years prior to the date of  
35 application and has completed a minimum of 200 hours of formal training in massage  
36 therapy as determined by the board;

1 (G) He or she has, to the satisfaction of the board, training in another state or  
2 jurisdiction that meets or exceeds the requirements for licensing in this state; or

3 (H) He or she has been a member for a period of one year prior to his or her application  
4 for licensure of a professional massage therapy association established before 2002,  
5 which holds its members to a published code of ethics. The applicant shall be a member  
6 at the level that requires an average of at least ten continuing education hours annually  
7 and requires a 500 hour core curriculum or the passing of a certification examination.

8 (c) On and after July 1, 2007, any applicant for a license as a massage therapist must  
9 submit a completed application upon a form and in such manner as the board prescribes,  
10 accompanied by applicable fees, and evidence satisfactory to the board that:

11 (1) The applicant is at least 18 years of age;

12 (2) The applicant has a high school diploma or its recognized equivalent;

13 (3) The applicant is a citizen of the United States or a permanent resident of the United  
14 States;

15 (4) The applicant is of good moral character. For purposes of this paragraph, 'good  
16 moral character' means professional integrity and a lack of any conviction for acts  
17 involving moral turpitude where the underlying conduct relates to the applicant's fitness  
18 to practice massage therapy;

19 (5) The applicant agrees to provide the board with any and all information necessary to  
20 perform a criminal background check and expressly consents and authorizes the board  
21 or its representative to perform such a check;

22 (6) The applicant has completed successfully a board recognized educational program  
23 consisting of a minimum of 500 hours of course and clinical work; and

24 (7) The applicant has passed satisfactorily the National Certification Examination for  
25 Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an  
26 examination administered by another state or jurisdiction whose license requirements  
27 meet or exceed those of this state.

28 43-24A-9.

29 (a) A provisional permit to practice as a provisionally permitted massage therapist may be  
30 issued for a two-year period by the board to the following applicants who are qualified to  
31 take the massage therapy examination:

32 (1) An applicant licensed in another state with like or similar requirements for licensure;  
33 or

34 (2) An applicant who is not the holder of any massage therapy license.

35 (b) Such permit shall authorize the applicant to work under the supervision of a licensed  
36 massage therapist as provided by the board.

1 (c) The applicant, by submitting an application for a provisional permit, agrees to provide  
2 the board with any and all information necessary to perform a criminal background check  
3 and expressly consents and authorizes the board or its representative to perform such a  
4 check.

5 (d) Such provisional permit shall have the same force and effect as a permanent license  
6 until the time of its expiration.

7 (e) The provisional permit shall expire on the same date as a permanent license that is  
8 issued to persons who have passed the examination.

9 43-24A-10.

10 The board may require that all applications be made under oath.

11 43-24A-11.

12 (a) Examinations shall be administered to qualified applicants at least twice each calendar  
13 year.

14 (b) Applicants may obtain their examination scores in accordance with such rules and  
15 regulations as the board may establish.

16 43-24A-12.

17 (a) Any applicant for a license by reciprocity as a massage therapist must submit a  
18 completed application upon a form and in such manner as the board prescribes,  
19 accompanied by applicable fees, and evidence satisfactory to the board that:

20 (1) The applicant is at least 18 years of age;

21 (2) The applicant is of good moral character. For purposes of this paragraph, 'good  
22 moral character' means professional integrity and a lack of any conviction for acts  
23 involving moral turpitude where the underlying conduct relates to the applicant's fitness  
24 to practice massage therapy;

25 (3) The applicant agrees to provide the board with any and all information necessary to  
26 perform a criminal background check and expressly consents and authorizes the board  
27 or its representative to perform such a check; and

28 (4) The applicant is currently licensed as a massage therapist in another jurisdiction,  
29 state, or territory of the United States or foreign country which requires standards for  
30 licensure considered by the board to be equivalent to the requirements for licensure under  
31 this chapter.

1 43-24A-13.

2 (a) Any applicant for a license by endorsement as a massage therapist must submit a  
3 completed application upon a form and in such manner as the board prescribes,  
4 accompanied by applicable fees, and evidence satisfactory to the board that:

5 (1) The applicant is at least 18 years of age;

6 (2) The applicant is of good moral character. For purposes of this paragraph, 'good  
7 moral character' means professional integrity and a lack of any conviction for acts  
8 involving moral turpitude where the underlying conduct relates to the applicant's fitness  
9 to practice massage therapy;

10 (3) The applicant agrees to provide the board with any and all information necessary to  
11 perform a criminal background check and expressly consents and authorizes the board  
12 or its representative to perform such a check; and

13 (4) The applicant either:

14 (A) Is currently licensed as a massage therapist in another jurisdiction, state, or  
15 territory of the United States or foreign country which requires standards for licensure  
16 considered by the board to be equivalent to the requirements for licensure under this  
17 chapter; or

18 (B) Has current certification by the National Certification Board for Therapeutic  
19 Massage and Bodywork or an equivalent certification approved by the National  
20 Commission for Certifying Agencies.

21 43-24A-14.

22 (a) The licensee shall display the license certificate or a photocopy thereof in an  
23 appropriate and public manner at each location at which he or she practices.

24 (b) All licenses shall expire biennially unless renewed. All applications for renewal of a  
25 license shall be filed with the division director prior to the expiration date, accompanied  
26 by the biennial renewal fee prescribed by the board and certifying that all current  
27 requirements of continuing education as determined by the board have been fulfilled. A  
28 license which has expired for failure of the holder to renew may only be reinstated after  
29 application and payment of the prescribed reinstatement fee within the time period  
30 established by the division director, provided that the applicant meets such requirements  
31 as the board may establish by rule. Any license which has not been reinstated within such  
32 period following its expiration may not be renewed, reinstated, or reissued thereafter. The  
33 holder of such a canceled license may apply for and obtain a valid license only upon  
34 compliance with all relevant requirements for issuance of a new license.

35 (c) The licensee shall inform the board of any change of address within 30 days.

1 (d) Each person licensed under this chapter is responsible for renewing his or her license  
2 before the expiration date.

3 (e) Under procedures and conditions established by the board, a licensee may request that  
4 his or her license be declared inactive. The licensee may apply for active status at any time  
5 and upon meeting the conditions set forth by the board shall be declared active.

6 43-24A-15.

7 (a) It is a violation of this chapter for any person to advertise massage therapy services  
8 unless such services are provided by a person who holds a valid license under this chapter.

9 (b) It shall be a violation of this chapter for any person to advertise:

10 (1) As a massage therapist unless the person holds a valid license under this chapter in  
11 the classification so advertised; or

12 (2) Massage therapy services combined with escort or dating services or adult  
13 entertainment.

14 (c) It shall be unlawful for a person or business entity or its employees, agents, or  
15 representatives to practice massage therapy or to use in connection with its name or  
16 business activity the terms 'massage,' 'massage therapy,' 'massage therapist,' 'massage  
17 practitioner,' 'bodywork,' 'bodyworker,' 'bodywork therapist,' or the letters 'M.T.,' 'L.M.T.,'  
18 or any other words, letters, abbreviations, or insignia indicating or implying directly or  
19 indirectly that massage therapy is provided or supplied unless such massage therapy is  
20 provided by a massage therapist licensed and practicing in accordance with this chapter.

21 (d) Notwithstanding the prohibitions of subsection (c) of this Code section, practitioners  
22 who meet the criteria established for exemption in paragraph (5) of Code Section  
23 43-24A-19 are not prohibited from using the terms 'bodywork,' 'bodyworker,' and  
24 'bodywork therapist' in their promotional materials and advertising and also are not  
25 prohibited from advertising and using in their promotional materials any certifications that  
26 they are qualified to use.

27 43-24A-16.

28 The practice of massage therapy is declared to be an activity affecting the public interest  
29 and involving the health, safety, and welfare of the public. Such practice by a person who  
30 is not licensed to practice in this state is declared to be a public nuisance, harmful to the  
31 public health, safety, and welfare. Any citizen of this state, the board, or the appropriate  
32 prosecuting attorney where such practice is carried on by such unlicensed person may, on  
33 behalf of the public, bring an action to restrain and enjoin such unlicensed practice in the  
34 superior court of the county where such unlicensed person resides or works. It shall not be

1 necessary in order to obtain an injunction under this Code section to allege or prove that  
2 there is no adequate remedy at law or to allege or prove any special injury.

3 43-24A-17.

4 The board shall take disciplinary action in accordance with the provisions of Chapter 1 of  
5 this title.

6 43-24A-18.

7 Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia  
8 Administrative Procedure Act.'

9 43-24A-19.

10 Nothing in this chapter shall be construed to affect, restrict, or prevent the practice,  
11 services, or activities of:

12 (1) A person licensed, registered, or certified under any other article under Title 43 while  
13 engaged in the professional or trade practices properly conducted under authority of such  
14 other licensing laws, provided that such person shall not use the title of massage therapist;

15 (2) A person pursuing a course of study leading to a degree or certificate as a massage  
16 therapist in an educational program recognized by the board, if such person is designated  
17 by title indicating student status and is fulfilling uncompensated work experiences  
18 required for the attainment of the degree or certificate;

19 (3) A nonresident person rendering massage therapy up to 60 days during a 12 month  
20 period for treatment of a temporary sojourner only, provided that such nonresident  
21 massage therapist holds a license, registration, or certification from another state,  
22 jurisdiction, or country if the requirements as determined by the board for licensure are  
23 substantially equal to the requirements contained in this chapter or provided that such  
24 nonresident massage therapist is currently nationally certified in therapeutic massage and  
25 bodywork;

26 (4) A person duly licensed, registered, or certified in another jurisdiction, state, territory,  
27 or a foreign country when incidentally in this state to provide service as part of an  
28 emergency response team working in conjunction with disaster relief officials or as part  
29 of a charity event with which he or she comes into the state; or

30 (5) A person who uses a system of structured touch or movement while practicing an  
31 alternative educational or therapeutic method with established standards and ethics,  
32 provided that his or her services are not designated or implied to be massage or massage  
33 therapy. Such person must be recognized by a professional organization or credentialing

1 agency that represents or certifies the respective practice based on a minimal level of  
2 training, demonstration of competency, and adherence to ethical standards; or

3 (6) A person who was engaged in massage therapy practice prior to July 1, 2005, but the  
4 prohibition of subsection (c) of Code Section 43-24A-15 shall apply to such a person on  
5 and after July 1, 2007.

6 43-24A-20.

7 The board shall establish continuing education requirements not to exceed 25 hours per  
8 biennium. The board shall by rule establish criteria for the approval of continuing  
9 education programs or courses. The programs or courses approved by the board may  
10 include correspondence courses that meet the criteria for continuing education courses.

11 43-24A-21.

12 As cumulative to any other remedy or criminal prosecution, the board may file a  
13 proceeding in the name of the state seeking issuance of a restraining order, injunction, or  
14 writ of mandamus against any person who is or has been violating any of the provisions of  
15 this chapter or the lawful rules or orders of the board.

16 43-24A-22.

17 This chapter shall not be construed to prohibit a county or municipality from enacting any  
18 regulation of persons not licensed pursuant to this chapter. No provision of any ordinance  
19 enacted by a municipality, county, or other jurisdiction that is in effect before July 1, 2005,  
20 and that relates to the practice of massage therapy or requires licensure of a massage  
21 therapist may be enforced against a person who is issued a license by the board under this  
22 chapter.

23 43-24A-23.

24 Notwithstanding any provision of law to the contrary, the act of a duly licensed massage  
25 therapist in performing a massage shall be deemed to be the act of a health care  
26 professional and shall not be subject to the collection of any form of state or local taxation  
27 regulations not also imposed on other professional health care activities.

28 43-24A-24.

29 (a) Any person who practices massage therapy without a valid license in violation of this  
30 chapter, upon conviction thereof, shall be punished as provided in this Code section.

31 (b) Each act of unlawful practice under this Code section shall constitute a distinct and  
32 separate offense.

1 (c) Upon being convicted a first time under this Code section, such person shall be  
2 punished by a fine of not more than \$500.00 for each offense. Upon being convicted a  
3 second or subsequent time under this Code section, such person shall be punished by a fine  
4 of not more than \$1,000.00 for each offense, imprisonment for not more than 12 months,  
5 or both."

6 **SECTION 2.**

7 All laws and parts of laws in conflict with this Act are repealed.