

Senate Bill 364

By: Senators Staton of the 18th, Unterman of the 45th, Murphy of the 27th, Brown of the 26th, Douglas of the 17th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to
2 massage therapy practice, so as to provide better control and regulation of the practice of
3 massage therapy; to provide for a definition; to change provisions relating to the powers of
4 the Georgia Board of Massage Therapy; to change and expand acts constituting violations
5 of the chapter; to change provisions relating to disciplinary actions; to clarify provisions
6 relating to local regulation of massage therapy; to increase punishment for violations of the
7 chapter; to provide for related matters; to provide an effective date and applicability; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage
12 therapy practice, is amended in Code section 43-24A-3, relating to definitions, by adding a
13 new paragraph to read as follows:

14 "(4.1) 'Entity' means the owner or operator of a business where massage therapy for
15 compensation is performed."

16 style="text-align:center">**SECTION 2.**

17 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
18 43-24A-7, relating to powers of the Georgia Board of Massage Therapy, as follows:

19 "(3) Conduct investigations for the purpose of discovering violations of this chapter or
20 grounds for disciplining persons ~~licensed under~~ or entities acting in violation of this
21 chapter;"

22 style="text-align:center">**SECTION 3.**

23 Said chapter is further amended by revising Code Section 43-24A-15, relating to unlawful
24 acts, as follows:

25 "43-24A-15.

26 (a) It ~~is shall be~~ a violation of this chapter for any person or entity to advertise massage
27 therapy services or to advertise the offering of massage therapy services unless such
28 services are provided by a person who holds a valid license under this chapter.

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

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

32 (2) Massage therapy services combined with escort or dating services or adult
33 entertainment.

34 (c) It shall be ~~unlawful~~ a violation of this chapter for a person or ~~business~~ entity, or its the
35 employees, agents, or representatives of such person or entity, to practice massage therapy
36 or to use in connection with its such person's or entity's name or business activity the terms
37 'massage,' 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,'
38 'L.M.T.,' or any other words, letters, abbreviations, or insignia indicating or implying
39 directly or indirectly that massage therapy is provided or supplied unless such massage
40 therapy is provided by a massage therapist licensed and practicing in accordance with this
41 chapter.

42 (d) It shall be a violation of this chapter for any entity to:

43 (1) Advertise the offering of massage therapy services combined with escort or dating
44 services or adult entertainment; or

45 (2) Employ unlicensed massage therapists to perform massage therapy.

46 (e) It shall be a violation of this chapter for any person to practice massage therapy without
47 holding a current or provisional license as a massage therapist in accordance with
48 subsection (a) of Code Section 43-24A-8.

49 (f) It shall be a violation of this chapter for any person or entity, or the employees, agents,
50 or representatives of such person or entity, to render or offer massage therapy services for
51 compensation unless such massage therapy is provided by a licensed massage therapist."

52 SECTION 4.

53 Said chapter is further amended by revising Code Section 43-24A-17, relating to disciplinary
54 actions, as follows:

55 "43-24A-17.

56 (a) The board ~~shall may~~ take ~~disciplinary action in accordance with the provisions of~~
57 ~~Chapter 1 of this title:~~ any one or more of the following actions against a person or entity
58 found by the board to have committed a violation of this chapter:

59 (1) Reprimand or place the licensee on probation;

60 (2) Revoke or suspend the license or deny the issuance or renewal of a license;

- 61 (3) Impose an administrative fine not to exceed \$500.00 for each violation; and
 62 (4) Assess costs against the violator for expenses relating to the investigation and
 63 administrative action.
 64 (b) The board may assess collection costs and interest for the collection of fines imposed
 65 under this chapter against any person or entity that fails to pay a fine as directed by the
 66 board."

67 SECTION 5.

68 Said chapter is further amended by revising Code Section 43-24A-22, relating to local
 69 regulation, as follows:

70 "43-24A-22.

71 (a) This chapter shall not be construed to prohibit a county or municipality from enacting
 72 any regulation of persons not licensed pursuant to this chapter. Any place of business
 73 where massage therapy for compensation is performed shall also be subject to regulation
 74 by local governing authorities.

75 (b) No provision of any ordinance enacted by a municipality, county, or other jurisdiction
 76 that is in effect before July 1, 2005, and that relates to the practice of massage therapy or
 77 requires licensure of a massage therapist may be enforced against a person who is issued
 78 a license by the board under this chapter."

79 SECTION 6.

80 Said chapter is further amended by revising Code Section 43-24A-24, relating to fines and
 81 punishments for violations, as follows:

82 "43-24A-24.

83 (a) Any person who practices massage therapy without a valid license acts in violation of
 84 this chapter Code Section 43-24A-15, upon conviction thereof, shall be punished as
 85 provided in this Code section.

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

88 (c) Upon being convicted a first time under this Code section, such person or entity shall
 89 be guilty of and shall be punished by a fine of not more than \$500.00 as for a misdemeanor
 90 for each offense. Upon being convicted a second time under this Code section, such person
 91 or entity shall be guilty of and shall be punished as for a misdemeanor of a high and
 92 aggravated nature. Upon being convicted a second third or subsequent time under this
 93 Code section, such person or entity shall be guilty of a felony and shall be punished by a
 94 fine of not more than \$1,000.00 \$25,000.00 for each offense, imprisonment for not more
 95 than 12 months less than one nor more than five years, or both."

96 **SECTION 7.**

97 This Act shall become effective on July 1, 2010, and shall apply to all offenses which occur
98 on and after that date.

99 **SECTION 8.**

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