

HOUSE BILL NO. 1190

Introduced by

Representative Hoffner

1 A BILL for an Act to amend and reenact sections 43-25-02, 43-25-03, and 43-25-04 of the North
2 Dakota Century Code, relating to massage therapist licensing requirements; and to declare an
3 emergency.

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

5 **SECTION 1. AMENDMENT.** Section 43-25-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-25-02. Definitions.** In this chapter, unless the context otherwise requires:

8 1. "Board" means the North Dakota governor's board of massage therapies.

9 2. "Massage" means the scientific art and system of the assessment of and the
10 manual application to the soft tissue of skin, muscle, tendon, ligament, and fascia
11 and the structures lying within this soft tissue by use of a hand, foot, knee, elbow,
12 arm, forearm, or vibratory or mechanical apparatus through the systematic external
13 application of touch, striking, friction, vibration, percussion, kneading, compression,
14 and medical gymnastics within the normal physiologic range of motion. The term
15 includes adjunctive external modalities, techniques, and applications of alternative
16 health therapies generally thought of as holistic medicine, for the purpose of
17 establishing and maintaining the optimal condition of all mind and body systems.
18 The term does not include the diagnosis or treatment of disease, the prescription or
19 administration of pharmaceuticals, or the practice of spinal or joint adjustments.

20 3. "Massage establishment" means any place of business ~~where one or more of the~~
21 ~~subjects and methods of treatments defined in this section are administered or~~
22 ~~used~~ in which massage is practiced.

23 4. "Massage therapist" means ~~a person~~ an individual who ~~practices or administers~~
24 ~~any of the following subjects and who has studied the underlying principles of~~

1 ~~anatomy and physiology generally included in a regular course of study by a~~
2 ~~recognized and approved school of massage: the art of body massage either by~~
3 ~~hands or with a mechanical or vibratory apparatus for the purpose of body~~
4 ~~massaging, reducing or contouring, the use of oil rubs, heat lamps, salt glows, hot~~
5 ~~and cold packs, tub, shower, or cabinet baths. Massage is the practice of a~~
6 ~~profession scientifically applied to the patient by the operator's hands and includes~~
7 ~~such modalities as acupressure and polarity and, after July 1, 1993, massage~~
8 ~~includes reflexology. Variations of the following procedures are used: touch,~~
9 ~~stroking, friction, kneading, vibration, percussion, and medical gymnastics.~~
10 ~~Massage therapists may not diagnose or treat classified diseases, practice spinal~~
11 ~~or other joint manipulations, or prescribe or administer vitamins satisfactorily~~
12 ~~completed professional training and board examination for massage.~~

13 **SECTION 2. AMENDMENT.** Section 43-25-03 of the 1997 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **43-25-03. Massage therapists to be licensed.** ~~A person may not:~~

- 16 1. ~~Engage in the~~ The board shall license any individual who meets the requirements
17 of section 43-25-07. An individual who does not meet the requirements of section
18 43-25-07 may not practice or attempt to practice massage for a fee or, for a
19 gratuity, or to as a free demonstration; may not conduct or teach any class of
20 massage without a license issued under this chapter;
- 21 2. ~~Operate or conduct~~ and may not operate a massage establishment ~~unless it meets~~
22 ~~the sanitary requirements of this chapter and any regulations adopted by the~~
23 ~~board;~~
- 24 3. ~~Employ an unlicensed person to work as a massage therapist; or~~
- 25 4. ~~Practice any branch of massage as defined in subsection 3 of section 43-25-02,~~
26 ~~whether for payment or free demonstration, without first being a licensed massage~~
27 ~~therapist under this chapter, or without operating and maintaining a bona fide~~
28 ~~massage establishment, and without first paying a license fee to the board.~~

29 **SECTION 3. AMENDMENT.** Section 43-25-04 of the 1997 Supplement to the North
30 Dakota Century Code is amended and reenacted as follows:

- 1 **43-25-04. Exemptions.** Any exemption granted under this section to a class of
2 professionals only applies to the extent the practice of the profession overlaps the practice of
3 massage. An exemption under this section only applies to the extent massage is being
4 performed in the course of the bona fide practice of the exempted profession. The following
5 classes of persons are exempt from this chapter:
- 6 1. ~~Persons~~ Any person authorized by under the laws of this state to practice
7 medicine, surgery, osteopathy, chiropractic, podiatry, or persons holding a drugless
8 practitioner's certificate under the laws of this state.
 - 9 2. ~~Registered nurses and~~ Any registered nurse or licensed practical nurses nurse
10 registered or licensed under the laws of this state chapter 43-12.1.
 - 11 3. ~~Registered~~ Any physical therapists therapist licensed under the laws of this state
12 chapter 43-26.
 - 13 4. ~~Schools and YMCA clubs who furnish therapy and massage services to their~~
14 ~~players and members.~~ Any student enrolled in a school of massage who is
15 participating, as a part of required course work, in a supervised student massage
16 clinic. The clinic must be on school premises, except a school of massage may
17 hold a maximum of three supervised student massage clinics off school premises
18 per school year. A school offering a clinic under this subsection may charge up to
19 twenty dollars per student massage. Course credit is the only compensation a
20 student may receive for a student massage under this subsection. A school of
21 massage shall notify the board in writing at least thirty days before a clinic is
22 offered under this subsection. The board is not liable for any damages arising from
23 a student massage clinic.
 - 24 5. ~~Registered hairdressers and cosmetologists~~ Any cosmetologist licensed and
25 registered under the laws of this state chapter 43-11.
 - 26 6. ~~Registered barbers~~ Any barber licensed or registered under the laws of this state
27 chapter 43-04.
 - 28 7. ~~Reflexologists~~ Any reflexologist licensed under chapter 43-49.
 - 29 8. Any student of a school of massage that meets the standards set by the state
30 board for vocational and technical education, when practicing massage in the

1 course of fulfilling a required massage therapy practicum or in the course of
2 participating in a school-supervised student massage clinic.

3 ~~Any exemption granted under this chapter is effective only insofar as and to the extent that the~~
4 ~~bona fide practice of the profession or business of the person exempted overlaps into the field~~
5 ~~comprehended by this chapter, and exemptions under this chapter are only for those activities~~
6 ~~which are performed in the course of the bona fide practice of the business or profession of the~~
7 ~~person exempted.~~

8 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.