

A Bill for an Act Relating to Massage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 452-1, Hawaii Revised Statutes, is amended to read as follows:

“§452-1 **Definitions.** For the purpose of this chapter, the following definitions shall be adopted:

- (1) “Board” means the board of massage created under this chapter.
- (2) “Massage” or “massaging” and “Hawaiian massage” commonly known as lomilomi, means any method of treatment or therapy of the superficial soft parts of the body, consisting of rubbing, stroking, tapping, pressing, shaking, or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.
- (3) “Massage therapist” means any person who engages in the occupation or practice of massage for compensation.
- (4) “Massage therapist apprentice” means any person who engages in the occupation or practice of massage for compensation under the direct supervision of a massage therapist.
- (5) “Massage establishment” means premises occupied and used for the purpose of practicing massage; provided that when any massage establishment is situated in any building used for residential purposes, the massage establishment premises shall be set apart and shall not be used for any other purpose.
- (6) “Out-call massage service” means any business, the primary function of which is to engage in or carry on the practice of massage, not at a fixed location but at a location designated by the customer, client, or service.”

SECTION 2. Section 452-2, Hawaii Revised Statutes, is amended to read as follows:

“§452-2 **License required.** It is unlawful for any person in the State to engage in or attempt to engage in the occupation or practice of massage for compensation without a current massage therapist license or massage therapist apprentice permit issued pursuant to this chapter. It is also unlawful for any person to advertise massage services without a current massage therapist license issued pursuant to this chapter.”

SECTION 3. Section 452-5, Hawaii Revised Statutes, is amended to read as follows:

“§452-5 **Organization of the board.** The board shall have a chairman who shall be elected annually from among its members.”

SECTION 4. Section 452-6, Hawaii Revised Statutes, is amended to read as follows:

“§452-6 Powers and duties of the board. (a) The board shall adopt rules pursuant to chapter 91 for the purposes of this chapter.

(b) The board may grant, or upon proof of violation of this chapter or the rules adopted by the board governing the practice under this chapter, revoke, suspend, or refuse to renew a license as provided in this chapter.

(c) The board may refuse to grant a license to or may refuse to renew or may revoke a license of a person found guilty of fraud in meeting any requirement of this chapter or an offense involving moral turpitude; addicted to liquor or drugs; or failing to display a license as provided in this chapter.

(d) The board shall adopt rules pursuant to chapter 91 relating to massage therapist apprenticeship including rules establishing qualifications for apprenticeship permits and the requirements to be met by massage therapist apprentices prior to taking the massage therapist license examination.

(e) The executive secretary, under the direction of the board, shall issue subpoenas for the attendance of witnesses before the board with the same effect as if they were issued in an action in the circuit court, and shall, under the direction of the board, administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the board. Disobedience of such a subpoena and false swearing before the executive secretary or the board shall be attended by the same consequences and be subject to the same penalties as if such disobedience or false swearing occurred in an action in the circuit court.”

SECTION 5. Section 452-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Massage therapist. The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) An applicant for examination shall have good moral character, and a medical report which shall include an X-ray examination of the chest made, or a tuberculin clearance reported dated, not more than six months prior to the date of application and a statement by a licensed physician that the applicant has been examined and is free of all other communicable and contagious diseases. A non-refundable application fee of \$15 and an examination fee of \$15, which shall be refunded only if the board finds that the applicant is not qualified to take the license examination, shall be paid to the board at the time of the application.
- (2) The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant's moral character.
- (3) An applicant for examination shall have spent at least six months as a massage therapist apprentice and have met all other requirements set for apprentices by the board pursuant to section 452-6(d).
- (4) The board may waive the examination of an applicant upon the payment of the application fee and the submittal of a medical report as required in paragraph (1) if the applicant is licensed in another state, territory, or the District of Columbia, wherein the license requirements are

found by the board to be comparable or more stringent than the requirements in force in this State.”

SECTION 6. Section 452-15, Hawaii Revised Statutes, is amended to read as follows:

“§452-15 Licenses. If an applicant for an examination for massage therapist passes the examination to the satisfaction of the board, or the board has waived the examination under section 452-13(a) (4), and the applicant has paid a license fee of \$25, the board shall issue a license to that effect, signed by the chairman. The license shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this chapter. The license shall not be transferable and shall be conspicuously displayed in the place of business or employment.”

SECTION 7. Section 452-19, Hawaii Revised Statutes, is amended to read as follows:

“§452-19 Penalties. (a) Any person who practices massage, maintains a massage establishment or out-call massage service, or both, or acts in any capacity wherein a license is required by this chapter, without a license provided for in this chapter, shall be fined not more than \$500 or imprisoned not more than six months, or both.

(b) Any owner, operator, manager, or licensee in charge of or in control of a massage establishment or out-call massage service who knowingly employs a person who is not licensed as a massage therapist or who has not received a permit as a massage therapist apprentice as provided in this chapter or who allows such an unlicensed person to perform, operate, or practice massage is guilty of a misdemeanor, and upon conviction such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both.”

SECTION 8. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)

(b) The following chapters are hereby repealed effective December 31, 1980:

- (1) Chapter 436 (Board of Examiners for Abstract Makers)
- (2) Chapter 468J (Travel Agencies)
- (3) Chapter 443 (Collection Agencies Board)

(c) The following chapters are hereby repealed effective December 31, 1981:

- (1) Chapter 441 (Cemetery Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 458 (Board of Dispensing Opticians)
- (5) Chapter 459 (Board of Examiners in Optometry)
- (6) Chapter 465 (Board of Certification for Practicing Psychologists)
- (7) Chapter 468E (Board of Speech Pathology and Audiology)
- [(8) Chapter 452 (Board of Massage)]

(d) The following chapters are hereby repealed effective December 31, 1982:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 442 (Board of Chiropractic Examiners)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)

(e) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 453 (Board of Medical Examiners)
- (4) Chapter 457 (Board of Nursing)
- (5) Chapter 460 (Board of Osteopathic Examiners)
- (6) Chapter 460J (Pest Control Board)
- (7) Chapter 461 (Board of Pharmacy)

(f) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 455 (Board of Examiners in Naturopathy)
- (2) Chapter 463E (Podiatry)
- (3) Chapter 438 (Barbering, Practice of)
- [[](4)[]] Chapter 439 (Beauty Culture)
- (5) Chapter 452 (Massage)

(g) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board).[.]
- (2) Chapter 440 (Boxing Commission)

(h) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 447 (Dental Hygienists)
- [[](2)[]] Chapter 463 (Board of Private Detectives and Guards)
- [[](3)[]] Chapter 471 (Board of Veterinary Examiners).”

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 10. This Act shall take effect 60 days after its approval.

(Approved May 28, 1981)

*Edited accordingly except as to section 8 which is set out in full.