



SPONSOR: Rep. Phillips & Rep. K. Williams & Sen. Poore  
Sen. Walsh

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 386

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO MASSAGE AND BODYWORK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 5302, Title 24 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows and redesignating accordingly:

3 § 5302. Definitions.

4 ~~The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them under~~  
5 For purposes of this section:

6 (4)a. “Massage establishment” means any place of ~~business that offers~~ business, including an office, clinic,  
7 facility, salon, or spa, where a person engages in the practice of massage and bodywork by doing any of the following:

8 1. Offering the practice of massage and bodywork and ~~where~~ the practice of massage and bodywork  
9 is conducted on the premises of the ~~business, or that represents~~ business.

10 2. Representing itself to the public by any title or description of services incorporating the words  
11 “bodywork,” “massage,” “massage therapy,” “massage practitioner,” “massagist,” “masseur,” “masseur,” “masseur,” or  
12 other words identified by the Board in regulation. A “~~place of business~~” includes any office, clinic, facility,  
13 salon, spa, or other location where a person or persons engage in the practice of massage and bodywork.

14 b. “Massage establishment” does not include any of the following:

15 1. The residence of a therapist or an out call location which is not owned, rented, or leased by a  
16 massage therapist or massage establishment ~~shall not be considered a massage establishment,~~ unless the  
17 location is advertised as the therapist’s or establishment’s place of business. ~~The term “massage~~  
18 ~~establishment” shall not include any~~

19 2. Any “facility” as defined in § 1131(4) of Title 16, any “hospital” as defined in § 1001 of Title 16,  
20 physician offices, physical therapy facilities, chiropractic offices, or athletic training facilities, whether or not  
21 they employ, contract with, or rent to massage ~~therapists, or institutions~~ therapists.

22                    3. Institutions of secondary or higher education when massage therapy is practiced in connection  
23                    with employment related to athletic ~~teams or any other business establishment licensed pursuant to another~~  
24                    ~~chapter of this title.~~ teams.

25                    Section 2. Amend § 5308, Title 24 of the Delaware Code by making deletions as shown by strike through and  
26                    insertions as shown by underline as follows and redesignating accordingly:

27                    § 5308. Qualifications of applicant; report to Attorney General; judicial review.

28                    (a) An applicant who is applying for licensure as a massage and bodywork therapist under this chapter must  
29                    submit evidence, verified by oath and satisfactory to the Board, that ~~such person:~~ all of the following apply to the applicant:

30                    (1) Is at least 18 years of ~~age;~~ age.

31                    (2) ~~Has a.~~ For an applicant who began a massage program before July 1, 2024, has completed 500 hours of  
32                    supervised in-class study as a student in a school which trains massage or bodywork therapists, or as a student in an  
33                    approved program of massage or bodywork ~~therapy;~~ therapy and the school or program of training ~~must include~~  
34                    included a curriculum of no less ~~than:~~ than all of the following:

35                    ~~a. 100~~ 1. One hundred hours of anatomy and ~~physiology;~~ physiology.

36                    ~~b. 300~~ 2. Three hundred hours of technique and theory of massage or bodywork ~~therapy;~~ therapy.

37                    ~~e. 75~~ 3. Seventy-five hours of elective courses in the field of massage ~~therapy;~~ therapy.

38                    ~~d. 25~~ 4. Twenty-five hours of ethics, ~~law~~ law, and ~~contraindications;~~ contraindications.

39                    b. For an applicant who began a massage program on or after July 1, 2024, has completed 625 hours of  
40                    supervised in-class study as a student in a school which trains massage or bodywork therapists, or as a student in  
41                    an approved program of massage or bodywork therapy and the school or program of training included a  
42                    curriculum of no less than all of the following:

43                    1. One hundred hours of anatomy and physiology.

44                    2. Three hundred hours of technique and theory of massage or bodywork therapy.

45                    3. Two hundred hours of elective courses in the field of massage therapy.

46                    4. Twenty-five hours of ethics, law, and contraindications.

47                    (3) Has achieved the passing score on a written, standardized, nationally-prepared and administered  
48                    examination in massage or bodywork therapy; the passing score shall be as established by the testing agency. If the  
49                    testing agency has not established a passing score, the Board in conjunction with the Division shall establish the  
50                    passing ~~score;~~ score.

51 (4) Has passed a state-certified examination in cardiopulmonary resuscitation (CPR) ~~training;~~ training and  
52 possesses current CPR certification. ~~An exception from Individuals who have lower limb amputee status are exempt~~  
53 ~~from the requirement to possess current CPR certification shall be allowed for persons who have lower limb amputee~~  
54 ~~status;~~ certification.

55 (5) Has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this  
56 ~~chapter;~~ chapter.

57 (6) Has no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction  
58 where the applicant has previously been or currently is licensed to practice massage ~~and/or or~~ bodywork therapy;  
59 therapy, or both.

60 (7) Has not been the recipient of any administrative penalties regarding that person's practice of massage and  
61 bodywork therapy, including ~~but not limited to fines, formal reprimands, license~~ any of the following:

62 a. Fines.

63 b. Formal reprimands.

64 c. License suspensions or revocation ~~(except for license revocations a reason other than~~ for nonpayment  
65 of license renewal fees); ~~probationary limitations and/or has not entered~~ fees.

66 d. Probationary limitations.

67 e. Entering into any "consent agreements" which contain conditions placed by a Board on that person's  
68 professional conduct and practice, including any voluntary surrender of a license. The Board may determine, after  
69 a hearing, whether such administrative penalty is grounds to deny ~~licensure;~~ licensure.

70 (8) ~~Shall~~ Must not have any impairment related to drugs or alcohol or a finding of mental incompetence by a  
71 physician that would limit the applicant's ability to undertake that applicant's practice in a manner consistent with the  
72 safety of the ~~public;~~ public.

73 (9) Has not been convicted of a crime that is substantially related to the practice of massage and bodywork. In  
74 determining whether a crime is substantially related to the practice of massage and bodywork, the Board shall observe  
75 the limitations set forth under § 8735(x)(4) of Title 29, with the exception of a conviction for any felony sexual offense  
76 as defined under § 761 of Title 11 or unlawful sexual contact in the third degree as defined under § 767 of Title 11,  
77 which may be considered regardless of the passage of time since the date of conviction. If after consideration of the  
78 factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board, by an  
79 affirmative vote of a majority of the quorum, or during the time period between Board meetings, the Board President or  
80 the President's designee, determines that granting a waiver would not create an unreasonable risk to public safety, the

81 Board, Board President, or President’s designee shall waive this paragraph (a)(9). A waiver may not be granted for a  
82 conviction of a felony sexual ~~offense~~; offense.

83 a.-e. [Repealed.]

84 (10) Notwithstanding the time limitation ~~set forth~~ under § 8735(x)(4) of Title 29, has not been convicted of a  
85 felony sexual offense as defined under § 761 of ~~Title 11~~; and Title 11.

86 (11) Has submitted, at the applicant’s expense, fingerprints and other necessary information in order to obtain  
87 the following:

88 a. A report of the applicant’s entire criminal history record from the State Bureau of Identification or a  
89 statement from the State Bureau of Identification that the State Central Repository contains no such information  
90 relating to that person.

91 b. A report of the applicant’s entire federal criminal history record pursuant to the Federal Bureau of  
92 Investigation appropriation of Title II of Public Law ~~92-544 (28 U.S.C. § 534)~~; 92-544, 28 U.S.C. § 534. The State  
93 Bureau of Identification shall be the intermediary for purposes of this section and the Board of Massage and  
94 Bodywork shall be the screening point for the receipt of said federal criminal history records.

95 c. An applicant may not be licensed to practice as a massage therapist until the applicant’s criminal  
96 history reports have been produced. An applicant whose record shows a prior criminal conviction that is  
97 substantially related to the practice of massage and bodywork may not be licensed by the Board unless a waiver is  
98 granted ~~pursuant to~~ under paragraph (a)(9) of this section.

99 Section 3. Section 1 of this Act takes effect upon its enactment into law. Section 2 of this Act takes effect the  
100 earlier of the following:

101 (1) Upon its enactment into law.

102 (2) On July 1, 2024.

#### SYNOPSIS

Section 1 of this Act revises the definition of “massage establishment” by repealing the exemption for all business establishments licensed under other chapters of Title 24. This exemption allows a massage practitioner to work in a licensed cosmetology shop that does not hold a massage establishment license. In that situation, the cosmetology shop can have an identified professional-in-charge responsible for the operation of the cosmetology shop and its employees, but that individual is not responsible for the massage practitioners. This means that the professional-in-charge responsible for the cosmetology shop cannot be held responsible for the wrongful actions of a massage practitioner, which adversely impacts the disciplinary process. With this exemption repealed, a cosmetology shop offering massage services is required to have both a massage establishment license and a licensed massage practitioner as the professional-in-charge responsible for the actions of all massage practitioners providing services on the premises.

Section 2 of this Act increases the minimum hours of education required for licensed massage therapists for students who begin their massage therapy education on or after July 1, 2024, from 500 hours to 625 hours and makes corresponding revisions to the required curriculum hours for each subject. This increase in hours is required by changes in the federal Department of Education regulations for student eligibility for Title IV financial aid, including the elimination

of the “150% rule”. Instead, school hours must match the curriculum hours required for licensure by the state. However, programs that require less than 600 hours are not eligible for Title IV financial aid. This change is consistent with the recommendation of the Federation of State Massage Therapy Boards that 625 curriculum hours are appropriate to adequately train massage therapists to practice safely and competently.

Section 1 of this Act takes effect upon enactment, but Section 2 of this Act takes effect on or before July 1, 2024, to align with the effective date of the federal Department of Education regulations.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.