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Massage Therapy Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Norman K Thurston
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies licensing requirements for performing massage therapy, including creating a registration requirement for massage therapy establishments.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the licensure requirements for massage therapy;
- ▶ specifies requirements for a criminal background check for an individual performing massage therapy;
- ▶ specifies requirements for a massage establishment to register;
- ▶ provides the circumstances under which an individual must perform massage therapy in a registered massage establishment;
- ▶ provides for the expiration and renewal of licensure;
- ▶ specifies identification, signage, and disclosure requirements;
- ▶ creates standards for unlawful and unprofessional conduct by a massage establishment;
- ▶ requires penalties for a massage establishment that engages in unlawful or unprofessional conduct;
- ▶ specifies when a massage establishment can be denied registration;
- ▶ specifies requirements for a criminal background check for massage establishment owners;
- ▶ creates a safe harbor provision for a licensed individual renting or leasing to a sole practitioner;
- ▶ allows the Division of Professional Licensing to inspect a massage establishment;
- ▶ requires standards for the inspection of a registered massage establishment;

- 28 ▶ provides exemptions from licensure requirements;
- 29 ▶ schedules the repeal of provisions related to a massage assistant and massage
- 30 assistant-in-training;
- 31 ▶ includes a coordination clause to coordinate enactment of provisions with S.B. 44,
- 32 Professional Licensure Amendments; and
- 33 ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

- 41 **58-1-301.5**, as last amended by Laws of Utah 2024, Chapter 420
- 42 **58-47b-102**, as last amended by Laws of Utah 2024, Chapter 507
- 43 **58-47b-301**, as last amended by Laws of Utah 2023, Chapter 225
- 44 **58-47b-302.1**, as enacted by Laws of Utah 2023, Chapter 225
- 45 **58-47b-303**, as last amended by Laws of Utah 2023, Chapter 225
- 46 **58-47b-304**, as last amended by Laws of Utah 2024, Chapter 455
- 47 **58-47b-305**, as last amended by Laws of Utah 2023, Chapter 225
- 48 **58-47b-306**, as enacted by Laws of Utah 2023, Chapter 225
- 49 **58-47b-401**, as enacted by Laws of Utah 1996, Chapter 76
- 50 **58-47b-501**, as last amended by Laws of Utah 2023, Chapter 225
- 51 **58-47b-502**, as last amended by Laws of Utah 2023, Chapter 225
- 52 **58-47b-503**, as last amended by Laws of Utah 2000, Chapter 309
- 53 **63I-1-258**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

- 55 **58-47b-301.1**, Utah Code Annotated 1953
- 56 **58-47b-302.2**, Utah Code Annotated 1953
- 57 **58-47b-303.1**, Utah Code Annotated 1953
- 58 **58-47b-304.1**, Utah Code Annotated 1953
- 59 **58-47b-306.1**, Utah Code Annotated 1953
- 60 **58-47b-401.1**, Utah Code Annotated 1953
- 61 **58-47b-501.1**, Utah Code Annotated 1953

62 **58-47b-502.1**, Utah Code Annotated 1953

63 **58-47b-503.1**, Utah Code Annotated 1953

64 **58-47b-504**, Utah Code Annotated 1953

65 **58-47b-601**, Utah Code Annotated 1953

66 REPEALS AND REENACTS:

67 **58-47b-302**, as last amended by Laws of Utah 2024, Chapter 137

68 **Utah Code Sections affected by Coordination Clause:**

69 **58-1-301.5**, as last amended by Laws of Utah 2024, Chapter 420

70 **58-47b-302**, as last amended by Laws of Utah 2024, Chapter 137

71 **58-47b-302.1**, as enacted by Laws of Utah 2023, Chapter 225

72 **58-47b-302.2**, Utah Code Annotated 1953

73

74 *Be it enacted by the Legislature of the state of Utah:*

75 *The following section is affected by a coordination clause at the end of this bill.*

76 Section 1. Section **58-1-301.5** is amended to read:

77 **58-1-301.5 . Division access to Bureau of Criminal Identification records.**

78 (1) The division shall have direct access to local files maintained by the Bureau of Criminal
79 Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for
80 background screening of individuals who are applying for licensure or certification, or
81 with respect to a license or certification, renewal, reinstatement, or relicensure or
82 recertification, as required in:

83 (a) Sections 58-17b-306 and 58-17b-307;

84 (b) Sections 58-24b-302 and 58-24b-302.1;

85 (c) Section 58-31b-302;

86 (d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy
87 Practice Act;

88 (e) Section 58-44a-302.1;

89 (f) Sections 58-47b-302 [~~and 58-47b-302.1~~] and 58-47b-302.2;

90 (g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm
91 company agents, and Section 58-55-302.1;

92 (h) Sections 58-60-103.1, 58-60-205, 58-60-305, 58-60-405, and 58-60-506[~~of Chapter~~
93 ~~60, Mental Health Professional Practice Act~~];

94 (i) Sections 58-61-304 and 58-61-304.1;

95 (j) Sections 58-63-302 and 58-63-302.1;

- 96 (k) Sections 58-64-302 and 58-64-302.1;
 97 (l) Sections 58-67-302 and 58-67-302.1;
 98 (m) Sections 58-68-302 and 58-68-302.1; and
 99 (n) Sections 58-70a-301.1 and 58-70a-302~~[, of Chapter 70a, Utah Physician Assistant~~
 100 ~~Act].~~

101 (2) The division's access to criminal background information under this section:

- 102 (a) shall meet the requirements of Section 53-10-108; and
 103 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
 104 held in abeyance, dismissed charges, and charges without a known disposition.

105 (3) The division may not disseminate outside of the division any criminal history record
 106 information that the division obtains from the Bureau of Criminal Identification or the
 107 Federal Bureau of Investigation under the criminal background check requirements of
 108 this section.

109 Section 2. Section **58-47b-102** is amended to read:

110 **58-47b-102 . Definitions.**

111 In addition to the definitions in Section 58-1-102, as used in this chapter:

112 (1) "Board" means the Board of Massage Therapy and Acupuncture created in Section
 113 58-47b-201.

114 (2) "Bodywork" means:

- 115 (a) the systematic manual or mechanical manipulation of the soft tissue of the body;
 116 (b) the use of the hands or a mechanical or electrical apparatus in connection with an
 117 activity described in this Subsection (2);
 118 (c) range of motion movements or movements without adjustment or articulation of the
 119 spinal column as defined in Section 58-73-102;
 120 (d) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam,
 121 and cabinet baths;
 122 (e) manual traction and stretching exercise;
 123 (f) activities and modality techniques similar or related to the activities and techniques
 124 described in this Subsection (2); or
 125 (g) providing, offering, or advertising a paid service using the term "massage" or a
 126 derivative of the word "massage" regardless of whether the service includes physical
 127 contact.

128 [~~2~~] (3)(a) "Breast" means the female mammary gland~~[and]~~ .

129 (b) "Breast" does not include the muscles, connective tissue, or other soft tissue of the

- 130 upper chest.
- 131 ~~[(3)]~~ (4) "Homeostasis" means ~~[maintaining, stabilizing, or returning]~~ the maintenance, the
132 stabilization, or the return of the muscular system to equilibrium~~[-the muscular system]~~.
- 133 (5) "Licensed individual" means an individual who is a massage assistant-in-training, a
134 massage assistant, a massage apprentice, or a licensed massage therapist.
- 135 (6) "Licensed massage therapist" means an individual licensed under this chapter to
136 perform massage services without supervision.
- 137 (7) "Limited massage therapy" means:
- 138 (a) bodywork that is not intended to be billed to an insurance company; or
- 139 (b) bodywork that is not supervised by:
- 140 (i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- 141 (ii) a physician licensed under Chapter 67, Utah Medical Practice Act;
- 142 (iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy
143 Practice Act;
- 144 (iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
145 Practice Act;
- 146 (v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
- 147 (vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician
148 Practice Act.
- 149 ~~[(4)]~~ (8) "Massage apprentice" means an individual licensed under this chapter as a massage
150 apprentice.
- 151 ~~[(5)]~~ (9) "Massage assistant" means an individual licensed under this chapter as a massage
152 assistant.
- 153 ~~[(6)]~~ (10) "Massage ~~[assistant in-training]~~ assistant-in-training" means an individual licensed
154 under this chapter as a ~~[massage assistant in-training]~~ massage assistant-in-training.
- 155 ~~[(7)]~~ "Massage therapist" means an individual licensed under this chapter as a massage
156 therapist.]
- 157 ~~[(8)]~~ "Massage therapy supervisor" means:]
- 158 ~~[(a)]~~ a massage therapist who has at least three years of experience as a massage therapist
159 and has engaged in the lawful practice of massage therapy for at least 3,000 hours;]
- 160 ~~[(b)]~~ a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;]
- 161 ~~[(c)]~~ a physician licensed under Chapter 67, Utah Medical Practice Act;]
- 162 ~~[(d)]~~ an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
163 Practice Act;]

- 164 ~~[(e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or]~~
165 ~~[(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice~~
166 ~~Act.]~~
- 167 (11)(a) "Massage establishment" means a place where massage services are performed
168 by an individual.
- 169 (b) "Massage establishment" includes a location an owner rents or leases to multiple sole
170 practitioners to perform massage services.
- 171 (c) "Massage establishment" does not include:
- 172 (i) a location owned, rented, or leased by a single sole practitioner to perform
173 massage services;
- 174 (ii) an out-call location; or
- 175 (iii) a massage school where massage services are only performed for an educational
176 purpose.
- 177 (12) "Massage services" means massage therapy or limited massage therapy.
- 178 (13) "Massage therapy" means:
- 179 (a) bodywork that is intended to be billed to an insurance company;
- 180 (b) bodywork that is supervised by:
- 181 (i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
182 (ii) a physician licensed under Chapter 67, Utah Medical Practice Act;
183 (iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy
184 Practice Act;
- 185 (iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
186 Practice Act;
- 187 (v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or
188 (vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician
189 Practice Act;
- 190 (c) the examination, assessment, and evaluation of the soft tissue structures of the body
191 for the purpose of devising a treatment plan to promote homeostasis;
- 192 (d) counseling, education, and other advisory services to reduce the incidence and
193 severity of physical disability, movement dysfunction, and pain;
- 194 (e) the use of rehabilitative procedures involving the soft tissue of the body;
- 195 (f) correction of muscular distortion by treatment of the soft tissues of the body; or
196 (g) work on an acute or subacute injury.
- 197 (14) "Massage therapy supervisor" means a licensed massage therapist in good standing

198 who has lawfully engaged in massage services for at least 3,000 hours.

199 (15) "Out-call location" means a location:

200 (a) where massage services are provided; and

201 (b) that a sole practitioner or a massage establishment does not own, lease, or rent.

202 (16)(a) "Owner" means an individual who controls the operation of a massage
 203 establishment.

204 (b) "Owner" includes:

205 (i) a shareholder, as defined in Section 16-10a-102, who owns, directly or indirectly
 206 through an entity controlled by the individual, any of the outstanding shares of an
 207 entity that owns, leases, or otherwise operates a massage establishment that:

208 (A) is a corporation; or

209 (B) is not publicly listed or traded;

210 (ii) an individual who owns, directly or indirectly through an entity controlled by the
 211 individual, any part of an entity that is not a corporation and that owns, leases, or
 212 otherwise operates a massage establishment;

213 (iii) an individual:

214 (A) in whose name a certificate of occupancy has been issued for a massage
 215 establishment; or

216 (B) that operates a massage establishment under a lease, operating agreement,
 217 franchise, or other arrangement; and

218 (iv) a sublessee or other legal possessor.

219 ~~[(9)(a) "Practice of limited massage therapy" means:]~~

220 ~~[(i) the systematic manual manipulation of the soft tissue of the body for the purpose~~
 221 ~~of promoting the therapeutic health and well-being of a client, enhancing the~~
 222 ~~circulation of the blood and lymph, relaxing and lengthening muscles, relieving~~
 223 ~~pain, restoring metabolic balance, relaxation, or achieving homeostasis;]~~

224 ~~[(ii) seated chair massage;]~~

225 ~~[(iii) the use of body wraps;]~~

226 ~~[(iv) aromatherapy;]~~

227 ~~[(v) reflexology; or]~~

228 ~~[(vi) in connection with an activity described in this Subsection (9), the use of:]~~

229 ~~[(A) the hands;]~~

230 ~~[(B) a towel;]~~

231 ~~[(C) a stone;]~~

- 232 ~~[(D) a shell;]~~
- 233 ~~[(E) a bamboo stick; or]~~
- 234 ~~[(F) an herbal ball compress.]~~
- 235 ~~[(b) "Practice of limited massage therapy" does not include work on an acute or subacute~~
 236 ~~injury.]~~
- 237 ~~[(10) "Practice of massage therapy" means:]~~
- 238 ~~[(a) the examination, assessment, and evaluation of the soft tissue structures of the body~~
 239 ~~for the purpose of devising a treatment plan to promote homeostasis;]~~
- 240 ~~[(b) the systematic manual or mechanical manipulation of the soft tissue of the body for~~
 241 ~~the purpose of promoting the therapeutic health and well-being of a client, enhancing~~
 242 ~~the circulation of the blood and lymph, relaxing and lengthening muscles, relieving~~
 243 ~~pain, restoring metabolic balance, or achieving homeostasis, or for any other purpose;]~~
- 244 ~~[(c) the use of the hands or a mechanical or electrical apparatus in connection with this~~
 245 ~~Subsection (10);]~~
- 246 ~~[(d) the use of rehabilitative procedures involving the soft tissue of the body;]~~
- 247 ~~[(e) range of motion or movements without spinal adjustment as set forth in Section~~
 248 ~~58-73-102;]~~
- 249 ~~[(f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam,~~
 250 ~~and cabinet baths;]~~
- 251 ~~[(g) manual traction and stretching exercise;]~~
- 252 ~~[(h) correction of muscular distortion by treatment of the soft tissues of the body;]~~
- 253 ~~[(i) counseling, education, and other advisory services to reduce the incidence and~~
 254 ~~severity of physical disability, movement dysfunction, and pain;]~~
- 255 ~~[(j) activities and modality techniques similar or related to the activities and techniques~~
 256 ~~described in this Subsection (10);]~~
- 257 ~~[(k) a practice described in this Subsection (10) on an animal to the extent permitted by:]~~
- 258 ~~[(i) Subsection 58-28-307(12);]~~
- 259 ~~[(ii) the provisions of this chapter; and]~~
- 260 ~~[(iii) division rule made in accordance with Title 63G, Chapter 3, Utah~~
 261 ~~Administrative Rulemaking Act; or]~~
- 262 ~~[(l) providing, offering, or advertising a paid service using the term massage or a~~
 263 ~~derivative of the word massage, regardless of whether the service includes physical~~
 264 ~~contact.]~~
- 265 ~~(17) "Registered massage establishment" means a massage establishment that is registered~~

266 with the division to lawfully provide massage services at a fixed massage establishment
 267 location in this state.

268 [(11)] (18) "Soft tissue" means the muscles and related connective tissue.

269 (19) "Sole practitioner" means a licensed massage therapist who:

270 (a) does not employ or contract with a licensed individual to offer massage services; and

271 (b) does not employ an individual who works at the sole practitioner's location on a
 272 regular basis.

273 [(12)] (20) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501[
 274 and] , 58-47b-501, and 58-47b-501.1.

275 [(13)] (21) "Unprofessional conduct" means the same as that term is defined in Sections
 276 58-1-501[and] , 58-47b-502, and 58-47b-502.1 and as may be further defined by
 277 division rule made in accordance with Title 63G, Chapter 3, Utah Administrative
 278 Rulemaking Act.

279 Section 3. Section **58-47b-301** is amended to read:

280 **58-47b-301 . Licensure required -- Registration required -- Scope of practice --**
 281 **Individuals.**

282 [(1) An individual shall hold a license issued under this chapter in order to engage in the
 283 practice of massage therapy or the practice of limited massage therapy, except as
 284 specifically provided in Section 58-1-307 or 58-47b-304.]

285 [(2)]

286 (1) An individual shall hold a license to perform massage services.

287 (2) [~~An individual shall have a license in order to:~~] Only a licensed individual may:

288 (a) represent oneself as a [~~massage therapist, massage apprentice, massage assistant, or~~
 289 ~~massage assistant in-training~~] massage assistant-in-training, a massage assistant, a
 290 massage apprentice, or a licensed massage therapist;

291 (b)(i) represent oneself as providing [~~a service that is within the practice of massage~~
 292 ~~therapy or the practice of limited massage therapy~~] massage services; or

293 (ii) use the word "massage" or any [~~other word~~] similar wording to describe the [
 294 ~~services~~] service; or

295 (c) charge or receive a fee or any consideration for providing [~~a service that is within the~~
 296 ~~practice of massage therapy or the practice of limited massage therapy~~] massage
 297 services.

298 (3) A licensed individual, other than a sole practitioner, may perform massage services only
 299 in:

- 300 (a) a registered massage establishment;
 301 (b) an out-call location; or
 302 (c) a location exempt from registration under Section 58-47b-304.1.
- 303 (4) A sole practitioner may offer massage services from:
 304 (a) an out-call location;
 305 (b) the licensed individual's residence, if the licensed individual does not employ or
 306 contract with another licensed individual; or
 307 (c) a location, other than the licensed individual's residence, that the licensed individual
 308 owns, rents, or leases.
- 309 (5)(a) Subject to Subsection 58-47b-502(9):
 310 (i) except as provided in Subsection (5)(b), a massage assistant-in-training may
 311 perform limited massage therapy under the direct supervision of a massage
 312 therapy supervisor;
 313 (ii) a massage assistant may perform limited massage therapy without supervision
 314 after completing 300 hours under the indirect supervision of a massage therapy
 315 supervisor;
 316 (iii) a massage apprentice may perform massage services under the supervision of a
 317 massage therapy supervisor as the division requires by rule made in accordance
 318 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 319 (iv) a licensed massage therapist may perform massage services without supervision.
- 320 (b) A massage assistant-in-training is permitted to complete 150 hours under the indirect
 321 supervision of a massage therapy supervisor.
- 322 (6) A massage therapy supervisor may supervise at one time up to six individuals of which
 323 no more than four may be massage apprentices or massage assistants-in-training.
- 324 Section 4. Section **58-47b-301.1** is enacted to read:
- 325 **58-47b-301.1 . Massage establishment registration required -- Maintenance of**
 326 **registration.**
- 327 (1) An owner shall register a massage establishment with the division.
 328 (2)(a) Each place of business shall register separately.
 329 (b) If multiple massage establishments exist at the same address, each massage
 330 establishment shall register separately.
 331 (3) A massage establishment shall provide the physical address where the massage
 332 establishment operates to the division.
 333 (4) A massage establishment may not allow massage services on the massage

334 establishment's premises unless the massage establishment is registered in accordance
335 with this section.

336 (5)(a) A registered massage establishment shall ensure only a licensed individual or an
337 exempt individual performs massage services.

338 (b) A registered massage establishment shall maintain documentation of the employment
339 or contract relationship and make the documentation available during an inspection
340 or investigation by the division.

341 (6) An owner may not assign or transfer a massage establishment registration.

342 (7) Upon the sale, sublease, or change of legal possession of a registered massage
343 establishment, the owner, lessee, or legal possessor of the massage establishment shall
344 notify the division in a form the division approves within 30 days after the day on which
345 the ownership, lessee, or legal possession changes.

346 (8) Whenever statute or rule requires or prohibits action by a registered massage
347 establishment, any owner of the registered massage establishment is responsible for all
348 activities of the registered massage establishment, regardless of the form of the business
349 organization.

350 *The following section is affected by a coordination clause at the end of this bill.*

351 Section 5. Section **58-47b-302** is repealed and reenacted to read:

352 **58-47b-302 . Qualifications for registration and licensure -- Individuals.**

353 (1) An applicant for a massage assistant-in-training license shall provide satisfactory
354 evidence to the division that the applicant will practice as a massage assistant-in-training
355 only under the supervision of a massage therapy supervisor.

356 (2) An applicant for a massage assistant license shall:

357 (a)(i) complete 300 hours of education that meets the standards the division requires
358 by rule;

359 (ii) complete training on the activities described in Subsection (5)(d) while the
360 applicant is enrolled in massage school; and

361 (iii) pass an examination as the division requires by rule;

362 (b)(i) while the applicant is licensed as a massage assistant-in-training:

363 (A) complete at least 150 hours of education that meets the standards the division
364 requires by rule under the direct supervision of a massage therapy supervisor;
365 and

366 (B) complete 150 hours of education that meets the standards the division requires
367 by rule under the indirect supervision of a massage therapy supervisor;

- 368 (ii) complete training on the activities described in Subsection (5)(d); and
369 (iii) pass an examination as the division requires by rule; or
370 (c)(i) have a massage safety permit; and
371 (ii) pass an examination as the division requires by rule that contains questions that
372 demonstrate the applicant's understanding of:
373 (A) the basics of anatomy;
374 (B) the basics of contraindications relating to massage;
375 (C) the basics of kinesiology;
376 (D) the basics of pathology;
377 (E) the basics of physiology; and
378 (F) the laws and rules relating to massage therapy.
- 379 (3) An applicant for a massage apprentice license shall provide satisfactory evidence to the
380 division that the applicant will practice as a massage apprentice only under the
381 supervision of a massage therapy supervisor as the division requires by rule.
- 382 (4) An applicant for a massage therapist license shall:
383 (a)(i)(A) have graduated from a school of massage having a curriculum that meets
384 the standards the division requires by rule; and
385 (B) complete training on the activities described in Subsection (5)(d) while the
386 applicant is enrolled in massage school;
387 (ii)(A) have completed equivalent education in compliance with standards the
388 division requires by rule; and
389 (B) complete training on the activities described in Subsection (5)(d); or
390 (iii)(A) have completed a massage apprenticeship program consisting of a
391 minimum of 1,000 hours of supervised training in accordance with standards
392 the division requires by rule; and
393 (B) complete training on the activities described in Subsection (5)(d) while the
394 applicant is a massage apprentice; and
395 (b) pass an examination as the division requires by rule.
- 396 (5) An applicant for a massage safety permit shall:
397 (a) submit an application in a form the division approves;
398 (b) pay a fee determined by the department under Section 63J-1-504;
399 (c) be 18 years old or older; and
400 (d) complete an educational module the division requires by rule that includes:
401 (i) practicing physical boundaries;

- 402 (ii) draping;
 403 (iii) gaining consent; and
 404 (iv) taking a medical history.
- 405 (6) An applicant for licensure under this chapter shall:
 406 (a) submit an application in a form the division approves;
 407 (b) pay a fee determined by the department under Section 63J-1-504;
 408 (c) be 18 years old or older;
 409 (d) consent to, and complete, a criminal background check described in Section
 410 58-47b-302.1;
 411 (e) meet any standard related to the criminal background check described in Subsection
 412 (6)(d) as the division requires by rule; and
 413 (f) disclose any criminal history the division requests on a form the division approves.
- 414 (7) Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall
 415 make rules establishing:
 416 (a) the examinations required by this chapter;
 417 (b) the standards of a massage assistant-in-training program;
 418 (c) the standards for a massage school curriculum;
 419 (d) the equivalent education and training for a licensed massage therapist;
 420 (e) the standards of a massage apprenticeship program including supervision
 421 requirements;
 422 (f) the educational module described in Subsection (5)(d); and
 423 (g) the standards for the criminal background check described in Subsection (6)(e).

424 *The following section is affected by a coordination clause at the end of this bill.*

425 Section 6. Section **58-47b-302.1** is amended to read:

426 **58-47b-302.1 . Criminal background check.**

- 427 (1) An applicant for individual licensure [~~under this chapter who requires a criminal~~
 428 background check] or registration and an owner of a registered massage establishment
 429 shall:
- 430 (a) submit fingerprint cards in a form acceptable to the division at the time the license
 431 application is filed; and
 432 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
 433 Identification and the Federal Bureau of Investigation regarding the application.
- 434 (2) The division shall:
 435 (a) in addition to other fees authorized by this chapter, collect from each applicant

- 436 submitting fingerprints in accordance with this section the fee that the Bureau of
437 Criminal Identification is authorized to collect for the services provided under
438 Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for
439 fingerprint processing for the purpose of obtaining federal criminal history record
440 information;
- 441 (b) submit from each applicant the fingerprint card and the fees described in Subsection
442 (2)(a) to the Bureau of Criminal Identification; and
- 443 (c) obtain and retain in division records a signed waiver approved by the Bureau of
444 Criminal Identification in accordance with Section 53-10-108 for each applicant.
- 445 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
446 Section 53-10-108:
- 447 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
448 and regional criminal records databases;
- 449 (b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal
450 history background check; and
- 451 (c) provide the results from the state, regional, and nationwide criminal history
452 background checks to the division.
- 453 (4) For purposes of conducting a criminal background check required under this section, the
454 division shall have direct access to criminal background information maintained under
455 Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
- 456 (5) The division may not disseminate outside of the division any criminal history record
457 information that the division obtains from the Bureau of Criminal Identification or the
458 Federal Bureau of Investigation under the criminal background check requirements of
459 this section.
- 460 (6)(a) A new license issued under this chapter is conditional pending completion of the
461 criminal background check.
- 462 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act[;] :
- 463 (i) if the criminal background check required [~~in Subsection 58-47b-302(7)] by this~~
464 section demonstrates the applicant has failed to accurately disclose a criminal
465 history, the license is immediately and automatically revoked upon notice to the
466 licensee by the division[-] ; and
- 467 (ii) if a massage establishment owner has a criminal conviction or pending criminal
468 charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any
469 crime listed by rule made by the division in collaboration with the board in

470 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
471 division shall deny an application for registration of a massage establishment.

472 (c) A person whose conditional license is revoked under Subsection (6)(b) is entitled to a
473 postrevocation hearing to challenge the revocation.

474 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
475 Chapter 4, Administrative Procedures Act.

476 (7) An applicant who successfully completes a background check under this section may
477 not be required by any other state or local government body to submit to a second
478 background check as a condition of lawfully engaging in the practice of massage therapy
479 or the practice of limited massage therapy in this state.

480 *The following section is affected by a coordination clause at the end of this bill.*

481 Section 7. Section **58-47b-302.2** is enacted to read:

482 **58-47b-302.2 . Qualifications for registration -- Massage establishments.**

483 (1)(a) The owner of a massage establishment shall register the massage establishment.

484 (b) If the massage establishment has multiple owners, the owners of the massage
485 establishment shall choose one owner to register the massage establishment.

486 (2) To register a massage establishment, the owner shall:

487 (a) submit an application in a form the division approves;

488 (b) pay a fee determined by the department under Section 63J-1-504;

489 (c) provide satisfactory documentation:

490 (i) of registration with the Division of Corporations and Commercial Code;

491 (ii) of business licensure if the municipality or county in which the massage
492 establishment is located requires a business license;

493 (iii) that the massage establishment's physical facilities comply with the requirements
494 the division requires by rule in accordance with Title 63G, Chapter 3, Utah
495 Administrative Rulemaking Act; and

496 (iv) of each owner's ownership or right to possession of the premises where the
497 massage establishment will be operated;

498 (d)(i) consent to, and complete, a criminal background check, described in Section
499 58-47b-302.1;

500 (ii) meet any standard related to the criminal background check described in
501 Subsection (2)(d)(i), that the division requires by rule in accordance with Title
502 63G, Chapter 3, Utah Administrative Rulemaking Act; and

503 (iii) disclose any criminal history the division requests on a form the division

- 504 approves;
- 505 (e) submit the following information for each individual for whom a criminal
- 506 background check is required under Subsection (3):
- 507 (i) full name;
- 508 (ii) any name used;
- 509 (iii) date of birth;
- 510 (iv) social security number or other satisfactory evidence of the applicant's identity
- 511 permitted by rule made by the division in accordance with Title 63G, Chapter 3,
- 512 Utah Administrative Rulemaking Act;
- 513 (v) address;
- 514 (vi) phone number;
- 515 (vii) email address;
- 516 (viii) license number, if licensed under this chapter;
- 517 (ix) registration number, if registered under this chapter;
- 518 (x) a recent color photograph of each owner; and
- 519 (xi) fingerprints in a form the division approves;
- 520 (f) allow the division to verify that the applicant and each individual listed in Subsection
- 521 (3) is legally present in the United States;
- 522 (g) submit a signed attestation in a form the division approves by rule attesting that the
- 523 massage establishment does not engage in illegal activities including human
- 524 trafficking, sex advertising, or unlicensed practice; and
- 525 (h) meet with the division or board if requested by the division or board.
- 526 (3) An individual shall consent to and complete a criminal background check in accordance
- 527 with Subsection (2)(d) if the individual:
- 528 (a) personally or constructively holds, including as the beneficiary of a trust:
- 529 (i) at least 10% of the entity's outstanding stock; or
- 530 (ii) more than \$25,000 of the fair market value of the entity;
- 531 (b) has a direct or indirect participating interest through shares, stock, or otherwise,
- 532 regardless of whether voting rights are included, of more than 10% of the profits,
- 533 proceeds, or capital gains of the entity;
- 534 (c) is a member of the board of directors or other governing body of the entity; or
- 535 (d) serves as:
- 536 (i) an elected officer of the entity; or
- 537 (ii) a general manager of the entity.

538 (4) A minor who is an owner of the massage establishment as the beneficiary of a trust is
539 exempt from Subsections (2)(d) and (2)(e).

540 (5) The division may require an owner to prove continuing right of possession at any time
541 during the registration period.

542 Section 8. Section **58-47b-303** is amended to read:

543 **58-47b-303 . Term of license and registration -- Expiration -- Renewal --**

544 **Individuals.**

545 (1)(a) Except as provided in Subsection (3), the division shall [~~issue a license~~] provide
546 licensing under this chapter in accordance with a two-year renewal cycle established
547 by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative
548 Rulemaking Act.

549 (b) [~~A~~] The division may extend or shorten a license renewal period [~~may be extended~~
550 ~~or shortened~~] by as much as one year to maintain established renewal cycles or to
551 change an established renewal cycle.

552 (2) Subject to Subsection (3), a license automatically expires on the expiration date shown
553 on the license unless renewed by the [~~licensee~~] licensed individual in accordance with
554 Section 58-1-308.

555 (3)(a) A massage apprentice license expires 24 months after the day on which the
556 division issues the massage apprentice license.

557 (b) A massage [~~assistant in training~~] assistant-in-training license expires six months after
558 the day on which the division issues the [~~massage assistant in training~~] massage
559 assistant-in-training license.

560 (c) The division may not renew or extend a massage apprentice or massage
561 assistant-in-training license unless:

562 (i) a circumstance or hardship arose beyond the individual's control that prevented the
563 individual from completing the process;

564 (ii) the division grants the renewal or extension for a period proportionate to the
565 circumstance or hardship; and

566 (iii) the individual's massage therapy supervisor consents in writing to the renewal or
567 extension.

568 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
569 division may make rules establishing the evidence an applicant shall present to renew a
570 license.

571 Section 9. Section **58-47b-303.1** is enacted to read:

572 **58-47b-303.1 . Term of registration -- Expiration -- Renewal -- Massage**
573 **establishments.**

574 (1)(a) Except as provided in Subsection (3), the division shall issue a registration under
575 this chapter in accordance with a two-year renewal cycle.

576 (b) The division may extend or shorten a renewal period by as much as one year to
577 maintain established renewal cycles or to change an established renewal cycle.

578 (2) A registration automatically expires on the expiration date shown on the registration
579 unless the registered massage establishment renews.

580 (3) At the time of renewal, a registered massage establishment shall:

581 (a) complete and submit an application for renewal in the form the division approves;
582 and

583 (b) pay a renewal fee established by the department under Section 63J-1-504.

584 Section 10. Section **58-47b-304** is amended to read:

585 **58-47b-304 . Exemptions from licensure -- Individuals.**

586 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
587 individuals may [~~engage in the practice of massage therapy or the practice of limited~~
588 ~~massage therapy~~] perform massage services, subject to the stated circumstances and
589 limitations, without being [~~licensed under this chapter~~] a licensed individual:

590 (a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

591 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

592 (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse
593 Midwife Practice Act;

594 (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

595 (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice
596 Act, while under the general supervision of a physical therapist;

597 (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic
598 Medical Practice Act;

599 (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
600 Act;

601 (h) a hospital staff member employed by a hospital, who practices massage as part of the
602 staff member's responsibilities;

603 (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;

604 (j) a student in training enrolled in a massage therapy school approved by the division;

605 (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice

- 606 Act;
- 607 (l)(i) an occupational therapist licensed under Chapter 42a, Occupational Therapy
- 608 Practice Act; and
- 609 (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational
- 610 Therapy Practice Act, while under the general supervision of an occupational
- 611 therapist;
- 612 (m) an individual performing animal massage therapy under the rules made by the
- 613 division in accordance with Subsection 58-28-307(12);
- 614 (n) an individual performing gratuitous massage; [~~and~~]
- 615 (o) an individual:
- 616 (i) certified by or through, and in good standing with, an industry organization that is
- 617 recognized by the division and that represents a profession with established
- 618 standards and ethics:
- 619 (A) who is certified to practice reflexology and whose practice is limited to the
- 620 scope of practice of reflexology;
- 621 (B) who is certified to practice a type of zone therapy, including foot zone
- 622 therapy, and whose practice is limited to the scope of practice for which the
- 623 individual is certified;
- 624 (C) who is certified to practice ortho-bionomy and whose practice is limited to the
- 625 scope of practice of ortho-bionomy;
- 626 (D) who is certified to practice bowerwork and whose practice is limited to the
- 627 scope of practice of bowerwork; or
- 628 (E) who is certified to practice a type of brain integration and whose practice is
- 629 limited to the scope of practice for which the individual is certified;
- 630 (ii) whose clients remain fully clothed from the shoulders to the knees; and
- 631 (iii) whose clients do not receive gratuitous massage from the individual[-]; and
- 632 (p)(i) an individual performing massage services who:
- 633 (A) holds a valid license, permit, certificate, or registration, for massage services
- 634 issued by any other jurisdiction of the United States or by a foreign country; or
- 635 (B) holds a certification from a nationally recognized massage therapy
- 636 organization if the nonresident individual is from a jurisdiction of the United
- 637 States that does not regulate massage therapy; and
- 638 (ii) is temporarily performing massage services in this state for a period that does not
- 639 exceed 30 days for the purpose of:

- 640 (A) presenting educational or clinical programs, lectures, seminars, or workshops;
 641 (B) providing massage services during an emergency as part of a disaster response
 642 team; or
 643 (C) consulting with a licensed individual regarding massage services.

644 (2) An individual described in Subsection (1) may not represent oneself as a [~~massage~~
 645 ~~therapist, massage apprentice, massage assistant, or massage assistant-in-training]~~
 646 massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed
 647 massage therapist.

648 (3) This chapter may not be construed to:

- 649 (a) authorize any individual licensed under this chapter to engage in any manner in the
 650 practice of medicine as defined by the laws of this state;
 651 (b) require insurance coverage or reimbursement for [~~massage therapy or limited~~
 652 ~~massage therapy~~] massage services from third party payors; or
 653 (c) prevent an insurance carrier from offering coverage for [~~massage therapy or limited~~
 654 ~~massage therapy~~] massage services.

655 Section 11. Section **58-47b-304.1** is enacted to read:

656 **58-47b-304.1 . Exemptions from registration -- Massage establishments.**

657 The following establishments or facilities are exempt from registering as massage
 658 establishments:

- 659 (1) hospitals or medical clinics;
 660 (2) physician offices;
 661 (3) physical therapy facilities;
 662 (4) chiropractic offices;
 663 (5) athletic training facilities or institutions of secondary or higher education when massage
 664 services are performed in connection with employment related to athletic teams;
 665 (6) a sole practitioner who only rents or leases to a sole practitioner if the sole practitioner
 666 meets the requirements described in Section 58-47b-504; and
 667 (7) other facilities as defined by rule.

668 Section 12. Section **58-47b-305** is amended to read:

669 **58-47b-305 . State and local jurisdiction.**

- 670 (1)(a) The division is the only agency authorized to license and register individuals to [
 671 ~~engage in the practice of massage therapy or the practice of limited massage therapy]~~
 672 perform massage services within the state or any of the state's political subdivisions.
 673 (b) This chapter does not prevent any political subdivision of the state from enacting:

- 674 (i) subject to Subsection (1)(b)(ii), ordinances governing the operation of
675 establishments offering [~~massages~~] massage services; or
676 (ii) ordinances regulating the practice of massage therapy or the practice of limited
677 massage therapy, if:
678 (A) [-] except as provided in Subsection (1)(b)(ii)(B), the ordinances are [~~not less~~]
679 at least as stringent [~~than~~] as this chapter[-] ; and
680 (B) the ordinances do not require a background check.

- 681 (2) This chapter does not prohibit any political subdivision of the state from prosecuting:
682 (a) an [~~unlicensed~~]individual who is engaged in [~~the practice of massage therapy or the~~
683 ~~practice of limited massage therapy~~] massage services without the required license; or
684 (b) [~~a licensed~~] an individual [who] or a massage establishment that is engaged in
685 unlawful conduct.

686 Section 13. Section **58-47b-306** is amended to read:

687 **58-47b-306 . Required identification and disclosures -- Individuals.**

688 [~~(1) As used in this section, "massage establishment" means an establishment in which an~~
689 ~~individual lawfully engages in the practice of massage therapy or the practice of limited~~
690 ~~massage therapy.]~~

691 [~~(2) If a massage assistant or massage assistant in-training engages in the practice of limited~~
692 ~~massage therapy at a massage establishment, the massage establishment shall~~
693 ~~prominently display to the public a sign that indicates certain massage services offered~~
694 ~~at the massage establishment are performed by a massage assistant or a massage~~
695 ~~assistant in-training.]~~

696 [~~(3)] (1)(a) Before a licensed individual first provides massage services to a client, the~~
697 licensed individual shall obtain from the client a completed and signed intake form.

698 (b) The division may further define the intake form by rule made in accordance with
699 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

700 (2) While performing massage services, a licensed individual:

701 (a) except as required in Subsection (2)(b), shall wear or display the licensed individual's
702 first and last name and license type;

703 (b) shall wear or display the licensed individual's first name and last initial and license
704 type if the licensed individual requests redaction as described in Subsection
705 58-47b-306.1(2); and

706 (c) [~~If an individual requests a massage service that is performed by a massage assistant~~
707 ~~or a massage assistant in-training, the licensee performing or the massage therapy~~

708 ~~supervisor supervising the massage service shall ensure that the individual is notified~~
 709 ~~before scheduling or agreeing to the massage service that the massage service is~~
 710 ~~performed by a massage assistant or massage assistant-in-training.] may not identify~~
 711 ~~to any person in connection with massage services other than as the individual's~~
 712 ~~license.~~

713 (3) Before scheduling or agreeing to a massage service, the client shall receive notice of the
 714 first name and last initial of the licensed individual performing the massage services and
 715 the licensed individual's license type.

716 Section 14. Section **58-47b-306.1** is enacted to read:

717 **58-47b-306.1 . Required signage and disclosures -- Massage establishments.**

718 (1) A massage establishment shall display prominently:

719 (a) the massage establishment registration;

720 (b) a copy of the state issued license for each licensed individual contracted with or
 721 employed by the establishment;

722 (c) division resources required by rule made in accordance with Title 63G, Chapter 3,
 723 Utah Administrative Rulemaking Act; and

724 (d) a sign that states some massage services offered at the registered massage
 725 establishment is performed by a massage assistant-in-training, a massage assistant, or
 726 a massage apprentice if the massage establishment employs or contracts with a
 727 massage assistant-in-training, a massage assistant, or a massage apprentice.

728 (2) If a licensed individual has a reasonable belief that the licensed individual's safety may
 729 be compromised, the licensed individual may request that the provider redact the
 730 displayed license to provide only the first name and last initial and the license type for
 731 the licensed individual.

732 (3) The massage establishment shall display signage that:

733 (a) states the massage establishment has verified that all providers are licensed
 734 individuals under Section 58-47b-302; and

735 (b) informs clients of:

736 (i) the right to request the provider's first name and last initial and license type; and

737 (ii) methods for reporting complaints to the division.

738 Section 15. Section **58-47b-401** is amended to read:

739 **58-47b-401 . Grounds for denial of license -- Individuals.**

740 [~~Grounds for-~~] If there are grounds in accordance with Section 58-1-401, the division
 741 may take the following actions regarding [a license under this chapter are in accordance with

742 Section ~~58-1-401~~] a licensed individual:

- 743 (1) refusal to issue a license to an applicant;
- 744 (2) refusal to renew the license of a licensee;
- 745 (3) revocation, suspension, restriction, or placement on probation of a license;
- 746 (4) issuance of a public or private reprimand to a licensee; and
- 747 (5) issuance of a cease and desist order.

748 Section 16. Section **58-47b-401.1** is enacted to read:

749 **58-47b-401.1 . Grounds for denial of registration -- Massage establishments.**

750 The division shall deny an application for registration of a massage establishment under
751 this chapter if:

- 752 (1) the location in the registration application had a registration revoked or surrendered for
753 cause within the last two years;
- 754 (2) the application is for a location or a business that has advertised in a manner that
755 reasonably implies sexual services are offered at the location;
- 756 (3) within two years before the date of the application, an owner had a previous license or
757 registration issued under this chapter suspended or revoked; or
- 758 (4) an owner has a criminal conviction or pending criminal charges for any crime under
759 Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the
760 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
761 Administrative Rulemaking Act.

762 Section 17. Section **58-47b-501** is amended to read:

763 **58-47b-501 . Unlawful conduct -- Individuals.**

- 764 (1) "Unlawful conduct" for an individual includes:
 - 765 (a) [~~practicing, engaging in, or attempting to practice or engage in the practice of~~
766 ~~massage therapy without holding a current license as a massage therapist or a~~
767 ~~massage apprentice under this chapter] performance of massage services without
768 being a licensed individual or an exempt individual;~~
 - 769 (b) [~~advertising or representing oneself as engaging in the practice of massage therapy~~
770 ~~when not licensed to do so] advertisement of or representation of oneself as able to
771 perform massage services when not a licensed individual or an exempt individual;~~
 - 772 (c) performance of massage services outside the scope of what the licensed individual is
773 licensed or registered to perform; or
 - 774 (e) [~~practicing, engaging in, or attempting to practice or engage in the practice of limited~~
775 ~~massage therapy without holding a current license as a massage therapist, massage~~

- 776 apprentice, massage assistant, or massage assistant in-training under this chapter;]
- 777 [(d) advertising or representing oneself as engaging in the practice of limited massage
- 778 therapy when not licensed to do so; and]
- 779 [(e)] (d) [massaging, touching, or applying] while performing massage services,
- 780 massage, touch, or application of any instrument or device [by a licensee in the
- 781 course of engaging in the practice of massage therapy or the practice of limited
- 782 massage therapy]to the:
- 783 (i) genitals;
- 784 (ii) anus; or
- 785 (iii) except as provided in Subsection (2), breasts of a female [patron] client.
- 786 (2)(a) Subsection [(1)(e)(iii)] (1)(d)(iii) does not apply if a female [patron] client:
- 787 (i) requests breast massage, as may be further defined by division rule made in
- 788 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 789 (ii) subject to Subsection (2)(b), signs a written consent form before each time the
- 790 procedure is performed.
- 791 (b) If the female [patron] client is a minor, the female [patron's] client's parent or legal
- 792 guardian shall sign the written consent form described in Subsection (2)(a).
- 793 Section 18. Section **58-47b-501.1** is enacted to read:
- 794 **58-47b-501.1 . Unlawful conduct -- Massage establishments.**
- 795 "Unlawful conduct" for a massage establishment includes:
- 796 (1) operation without a valid registration;
- 797 (2) use of a registered massage establishment as housing, sheltering, or for harboring any
- 798 individual;
- 799 (3) performance of massage services by an individual who is not licensed or exempt;
- 800 (4) performance of:
- 801 (a) massage services without the individual performing the massage being fully clothed;
- 802 or
- 803 (b) a sexual act;
- 804 (5) arrangement for a sexual act;
- 805 (6) use or the possession of adult-oriented merchandise while at the registered massage
- 806 establishment;
- 807 (7) advertisement on a sexually oriented website;
- 808 (8) advertisement of services in a manner that may be reasonably construed as sexual in
- 809 nature;

- 810 (9) refusal of inspection by the division as authorized under Section 58-47b-601;
 811 (10) arrangement or allowance of any of the unlawful acts described in Section 58-47b-501;
 812 (11) failure to immediately report to a local police department any disorderly conduct,
 813 sexual acts, or other criminal activity occurring on or within the registered massage
 814 establishment's premises;
 815 (12) concealment of an individual in the massage establishment;
 816 (13) refusal to provide identification to inspectors or law enforcement; or
 817 (14) attempt to elude an inspector by leaving the massage establishment or remaining
 818 behind locked doors in the massage establishment during an inspection.

819 Section 19. Section **58-47b-502** is amended to read:

820 **58-47b-502 . Unprofessional conduct -- Individuals.**

821 "Unprofessional conduct" for an individual includes the following and may be
 822 further defined by division rule made in accordance with Title 63G, Chapter 3, Utah
 823 Administrative Rulemaking Act:

- 824 (1) [~~maintaining, operating, or assisting~~] the maintenance, operation, or assistance in the
 825 establishment or operation of any place of business for the purpose of performing [~~the~~
 826 ~~practice of massage therapy or the practice of limited massage therapy~~] massage services
 827 without first obtaining a business license, if a license is required;
 828 (2) [~~failing~~] failure to comply with any applicable ordinances relating to the regulation of
 829 massage establishment;
 830 (3) [~~failing~~] failure to comply with all applicable state and local health or sanitation codes;
 831 (4) [~~failing~~] failure of a massage therapy supervisor to properly supervise a massage
 832 apprentice, massage assistant, [~~or massage assistant in-training~~] or a massage
 833 assistant-in-training;
 834 (5) [~~failing~~] failure to maintain mechanical or electrical equipment in a safe operating
 835 condition;
 836 (6) [~~failing~~] failure to adequately monitor [~~patrons~~] clients utilizing steam rooms, dry heat
 837 cabinets, or water baths;
 838 (7) [~~prescribing or administering~~] prescription or administration of medicine or drugs;
 839 (8) [~~engaging~~] engagement in any act or practice in a professional capacity that is outside of
 840 the [~~practice of massage therapy or the practice of limited massage therapy~~] scope of
 841 massage services; and
 842 (9) [~~engaging~~] engagement in any act or practice in a professional capacity for which the [~~l~~
 843 ~~icensee~~] licensed individual is not competent to perform through training or experience.

844 Section 20. Section **58-47b-502.1** is enacted to read:

845 **58-47b-502.1 . Unprofessional conduct -- Massage establishments.**

846 "Unprofessional conduct" for a massage establishment includes the following and may
847 be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah
848 Administrative Rulemaking Act:

- 849 (1) failure to comply with employee or client recordkeeping requirements as established in
850 rule;
851 (2) failure to comply with all applicable state and local health or sanitation codes and
852 requirements as established by rule;
853 (3) failure to comply with facility requirements as established by rule;
854 (4) maintenance, operation, or assistance in an establishment or operation of any place of
855 business for the purpose of performing massage services without first obtaining a
856 business registration, if a license is required;
857 (5) failure to comply with any applicable ordinances relating to the regulation of massage
858 establishment;
859 (6) failure to maintain mechanical or electrical equipment in a safe operating condition; and
860 (7) failure to adequately monitor a client utilizing steam rooms, dry heat cabinets, or water
861 baths.

862 Section 21. Section **58-47b-503** is amended to read:

863 **58-47b-503 . Penalties -- Individuals.**

- 864 (1) Except as provided in Subsection (2), [~~any~~] an individual who commits an act of
865 unlawful conduct under Section 58-47b-501 is guilty of a class A misdemeanor.
866 (2) Sexual conduct that violates Section 58-47b-501 and Title 76, Utah Criminal Code,
867 shall be subject to the applicable penalties in Title 76, Utah Criminal Code.
868 (3) For acts of unprofessional conduct or unlawful conduct by an individual, the division
869 may:
870 (a) assess an administrative fine in accordance with Subsection 58-1-502(1); and
871 (b) take any appropriate administrative action, which may include sending letters of
872 concern to the municipality and the police department for the municipality in which
873 the individual violates this chapter.
874 (4) The division shall deposit an administrative fine imposed in accordance with this
875 section into the Commerce Service Account.
876 (5) If an individual has been convicted of violating Section 58-47b-501, before an
877 administrative finding of a violation of the same section, the individual may not be

878 assessed an administrative fine under this chapter for the same incident for which the
879 conviction was obtained.

880 (6)(a) If, upon an inspection described in Section 58-47b-601 or an investigation under
881 this section, the division concludes that an individual has violated the provisions of
882 Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502,
883 or any rule or order issued with respect to these provisions, and that disciplinary
884 action is appropriate, the director or the director's designee from within the division
885 shall:

886 (i) notify the individual to appear before an adjudicative proceeding conducted under
887 Title 63G, Chapter 4, Administrative Procedures Act;

888 (ii) attempt to negotiate a stipulated settlement; or

889 (iii) promptly issue a citation to the individual according to this chapter and any
890 pertinent rules.

891 (b) The division shall suspend, revoke, place on probation, or refuse to issue or renew
892 the license of a licensed individual that fails to comply with the citation after the
893 citation becomes final.

894 (c) Failure of an individual to comply with a citation after the citation becomes final is a
895 ground for denial of license or renewal.

896 (d) The division may not issue a citation under this section after one year from the date
897 on which the violation that is the subject of the citation is reported to the division.

898 (e)(i) In addition to or in lieu of an administrative fine authorized in Subsection (3),
899 the division may assess a penalty to any person that is in violation of the
900 provisions of Chapter 1, Division of Professional Licensing Act, Section
901 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these
902 provisions, as evidenced by an uncontested citation, a stipulated settlement, or a
903 finding of violation in an adjudicative proceeding.

904 (ii) The penalty may be in an amount that is the greater of up to \$10,000 per single
905 violation or up to \$2,000 per day of an ongoing violation in accordance with a
906 penalty schedule established by rule.

907 (iii) The division shall deposit a penalty imposed in accordance with this section into
908 the Commerce Service Account.

909 (iv) The director may collect a penalty that is not paid by:

910 (A) referring the matter to a collection agency; or

911 (B) bringing an action in the district court of the county where the individual

912 against whom the penalty is imposed resides or in the county where the office
913 of the director is located.

914 (v) The division may consult with the county attorney or the attorney general of the
915 state for legal assistance and advice in an action to collect a penalty.

916 (vi) A court shall award reasonable attorney fees and costs to the prevailing party in
917 an action brought by the division to collect a penalty.

918 (vii) In addition to or in lieu of a penalty, the division may order the individual to
919 cease and desist from violating the provisions of Chapter 1, Division of
920 Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or
921 order issued with respect to these provisions.

922 (7)(a) A citation under Subsection (6) shall:

923 (i) be in writing and describe with particularity the nature of the violation, including
924 a reference to the provision of the chapter, rule, or order alleged to have been
925 violated;

926 (ii) state that the individual to whom the division issues the citation shall notify the
927 division in writing within 20 calendar days of service of the citation to contest the
928 citation at a hearing conducted under Title 63G, Chapter 4, Administrative
929 Procedures Act; and

930 (iii) explain the consequences of failure to timely contest the citation or to make
931 payment of any penalties assessed by the citation within the time specified in the
932 citation.

933 (b) The division may serve a citation issued under this section, or a copy of each
934 citation, upon any individual upon which a summons may be served:

935 (i) in accordance with the Utah Rules of Civil Procedure;

936 (ii) personally or upon the individual's agent by a division investigator or by any
937 person specially designated by the director; or

938 (iii) by mail.

939 (c) If, within 20 calendar days after the day of service of a citation, the individual to
940 whom the division issues the citation fails to request a hearing to contest the citation,
941 the citation becomes the final order of the division and is not subject to further
942 agency review.

943 (d) The division may extend the period to contest the citation for cause.

944 (8)(a) The division may suspend the license of a licensed individual without notice if:

945 (i) there is a pattern of credible facts that the individual is attempting to operate a

946 prostitution enterprise; or
947 (ii) the individual is engaged in any form of human trafficking whether there is a
948 violation of any other specific law, rule, or code.

949 (b) If the division suspends the license of a licensed individual without notice, the
950 division shall hold a hearing within 15 days.

951 Section 22. Section **58-47b-503.1** is enacted to read:

952 **58-47b-503.1 . Penalties -- Massage establishments.**

953 (1) For acts of unprofessional conduct or unlawful conduct by a massage establishment, the
954 division may:

955 (a) assess an administrative fine in accordance with Subsection 58-1-502(1); and

956 (b) take any appropriate administrative action, which may include sending letters of
957 concern to:

958 (i) the municipality and the police department for the municipality in which the
959 massage establishment is located; or

960 (ii) the property owner or manager from which the massage establishment is leasing
961 space.

962 (2) The division shall deposit an administrative fine imposed in accordance with this
963 section into the Commerce Service Account.

964 (3) If a massage establishment owner has been convicted of violating Section 58-47b-501.1,
965 before an administrative finding of a violation of the same section, the massage
966 establishment owner may not be assessed an administrative fine under this chapter for
967 the same incident for which the conviction was obtained.

968 (4)(a) If, upon an inspection described in Section 58-47b-601 or an investigation under
969 this section, the division concludes that a massage establishment has violated the
970 provisions of Chapter 1, Division of Professional Licensing Act, Section
971 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these
972 provisions, and that disciplinary action is appropriate, the director or the director's
973 designee from within the division shall:

974 (i) notify the massage establishment to appear before an adjudicative proceeding
975 conducted under Title 63G, Chapter 4, Administrative Procedures Act;

976 (ii) attempt to negotiate a stipulated settlement; or

977 (iii) promptly issue a citation to the massage establishment according to this chapter
978 and any pertinent rules.

979 (b) The division shall suspend, revoke, place on probation, or refuse to issue or renew

- 980 the registration of a registered massage establishment that fails to comply with the
981 citation after the citation becomes final.
- 982 (c) Failure of a massage establishment to comply with a citation after the citation
983 becomes final is a ground for denial of license, registration, or renewal.
- 984 (d) The division may not issue a citation under this section after one year from the date
985 on which the violation that is the subject of the citation is reported to the division.
- 986 (e)(i) In addition to or in lieu of an administrative fine authorized in Subsection (1),
987 the division may assess a penalty to any massage establishment that is in violation
988 of the provisions of Chapter 1, Division of Professional Licensing Act, Section
989 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these
990 provisions, as evidenced by an uncontested citation, a stipulated settlement, or a
991 finding of violation in an adjudicative proceeding.
- 992 (ii) The penalty may be in an amount that is the greater of up to \$10,000 per single
993 violation or up to \$2,000 per day of an ongoing violation in accordance with a
994 penalty schedule established by rule.
- 995 (iii) The division shall deposit a penalty imposed in accordance with this section into
996 the Commerce Service Account.
- 997 (iv) The director may collect a penalty that is not paid by:
- 998 (A) referring the matter to a collection agency; or
- 999 (B) bringing an action in the district court of the county where the massage
1000 establishment against which the penalty is imposed resides or in the county
1001 where the office of the director is located.
- 1002 (v) The division may consult with the county attorney or the attorney general of the
1003 state for legal assistance and advice in an action to collect a penalty.
- 1004 (vi) A court shall award reasonable attorney fees and costs to the prevailing party in
1005 an action brought by the division to collect a penalty.
- 1006 (vii) In addition to or in lieu of a penalty, the division may order the massage
1007 establishment to cease and desist from violating the provisions of Chapter 1,
1008 Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or
1009 any rule or order issued with respect to these provisions.
- 1010 (5)(a) A citation under Subsection (4) shall:
- 1011 (i) be in writing and describe with particularity the nature of the violation, including
1012 a reference to the provision of the chapter, rule, or order alleged to have been
1013 violated;

- 1014 (ii) state that the massage establishment to which the division issues the citation shall
1015 notify the division in writing within 20 calendar days of service of the citation to
1016 contest the citation at a hearing conducted under Title 63G, Chapter 4,
1017 Administrative Procedures Act; and
1018 (iii) explain the consequences of failure to timely contest the citation or to make
1019 payment of any penalties assessed by the citation within the time specified in the
1020 citation.
- 1021 (b) The division may serve a citation issued under this section, or a copy of each
1022 citation, upon any massage establishment upon which a summons may be served:
1023 (i) in accordance with the Utah Rules of Civil Procedure;
1024 (ii) personally or upon the massage establishment's agent by a division investigator or
1025 by any person specially designated by the director; or
1026 (iii) by mail.
- 1027 (c) If, within 20 calendar days after the day of service of a citation, the massage
1028 establishment to which the division issues the citation fails to request a hearing to
1029 contest the citation, the citation becomes the final order of the division and is not
1030 subject to further agency review.
- 1031 (d) The division may extend the period to contest the citation for cause.
- 1032 (6)(a) The division may suspend a registered massage establishment's registration
1033 without notice if:
- 1034 (i) there is a pattern of credible facts that the registered massage establishment is
1035 attempting to operate a prostitution enterprise; or
1036 (ii) the registered massage establishment is engaged in any form of human trafficking
1037 whether there is a violation of any other specific law, rule, or code.
- 1038 (b) If the division suspends the registration without notice, the division shall hold a
1039 hearing within 15 days.

1040 Section 23. Section **58-47b-504** is enacted to read:

1041 **58-47b-504 . Renting or leasing to a sole practitioner.**

1042 A sole practitioner renting or leasing to a sole practitioner is not liable for the actions of
1043 the sole practitioner to which the sole practitioner rents or leases so long as the sole
1044 practitioner:

- 1045 (1) verifies that the sole practitioner who is renting or leasing is a licensed massage
1046 therapist and in good standing in the state of Utah at the time of the rental or lease;
1047 (2) obtains a signed attestation from the sole practitioner who is renting or leasing that the

1048 sole practitioner has no business arrangement with the licensed individual other than a
1049 rental or lease; and

1050 (3) produces copies of the following if requested by the division:

1051 (a) the sole practitioner's state massage license;

1052 (b) the sole practitioner's signed attestation described in Subsection (2); and

1053 (c) the rental agreement.

1054 Section 24. Section **58-47b-601** is enacted to read:

1055 **Part 6. Enforcement**

1056 **58-47b-601 . Inspection.**

1057 (1) For the purpose of verifying compliance with this chapter, the division may enter and
1058 inspect the premises of any massage establishment.

1059 (2) Before conducting an inspection under Subsection (1), the division shall:

1060 (a) give proper identification;

1061 (b) request the registration for the massage establishment;

1062 (c) describe the nature and purpose of the inspection; and

1063 (d) provide upon request, the authority of the division to conduct the inspection and the
1064 penalty for refusing to permit the inspection as provided in Section 58-47b-503.1.

1065 (3) If during the inspection, the inspector has reasonable expectation that an occupant of a
1066 room is not fully clothed, the inspector shall allow the occupant a reasonable amount of
1067 time to dress before the inspector enters the room.

1068 (4) In conducting an inspection under Subsection (1), the division may, after meeting the
1069 requirements of Subsection (2):

1070 (a) examine any record, device, equipment, machine, electronic device or media, or area
1071 related to the practice of massage therapy for the purpose of verifying compliance
1072 with the applicable provisions of this chapter;

1073 (b) reproduce any record or media at the division's own cost; and

1074 (c) take a device for further analysis if considered necessary.

1075 (5) The owner or manager of the massage establishment shall assist the inspector by
1076 providing access to:

1077 (a) all areas of the massage establishment;

1078 (b) all personnel; and

1079 (c) all records requested by the inspector.

1080 (6) If upon inspection the division concludes that a person has violated the provisions of
1081 this chapter, or a rule or order issued with respect to this chapter, and that disciplinary

1082 action is appropriate, the director or the director's designee shall issue a penalty or
1083 citation to the registrant.

1084 Section 25. Section **63I-1-258** is amended to read:

1085 **63I-1-258 . Repeal dates: Title 58.**

1086 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed
1087 July 1, 2026.

1088 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

1089 (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

1090 (4) Section 58-37-3.5, Drugs for behavioral health treatment, is repealed July 1, 2027.

1091 (5) Subsection 58-37-6(7)(f)(iii), regarding a seven-day opiate supply restriction, is
1092 repealed July 1, 2032.

1093 (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

1094 (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
1095 repealed July 1, 2029.

1096 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1,
1097 2033.

1098 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.

1099 (10) Subsection 58-47b-102(8), defining massage assistant, is repealed July 1, 2029.

1100 (11) Subsection 58-47b-102(9), defining massage assistant-in-training, is repealed July 1,
1101 2029.

1102 (12) Subsection 58-47b-302(1), regarding applicant for a massage assistant-in-training, is
1103 repealed July 1, 2029.

1104 (13) Subsection 58-47b-302(2), regarding applicant for a massage assistant, is repealed July
1105 1, 2029.

1106 (14) Subsection 58-47b-303(3)(b), regarding expiration of a massage assistant-in-training
1107 license, is repealed July 1, 2029.

1108 (15) Subsection 58-55-201(2), regarding the Alarm System and Security Licensing
1109 Advisory Board, is repealed July 1, 2027.

1110 [(H)] (16) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
1111 2026.

1112 Section 26. **Effective Date.**

1113 This bill takes effect on October 1, 2025.

1114 Section 27. **Coordinating H.B. 278 with S.B. 44.**

1115 If H.B. 278, Massage Therapy Amendments, and S.B. 44, Professional Licensure

1116 Amendments, both pass and become law, the Legislature intends that, on October 1, 2025:

1117 (1) Subsection 58-1-301.5(1) in S.B. 44 be amended to read:

1118 "(1) As used in this section, "applicant" means an individual applying for licensure,
1119 certification, or registration, or with respect to a license, certification or registration,
1120 applying for renewal, reinstatement, relicensure, or recertification, as required in:

1121 (a) Section 58-5a-302;

1122 (b) Section 58-16a-302;

1123 (c) Section 58-17b-303;

1124 (d) Section 58-17b-304;

1125 (e) Section 58-17b-305;

1126 (f) Section 58-17b-306;

1127 (g) Section 58-24b-302;

1128 (h) Section 58-31b-302;

1129 (i) Section 58-42a-302;

1130 (j) Section 58-44a-302;

1131 (k) Section 58-47b-302;

1132 (l) Section 58-47b-302.2;

1133 (m) Section 58-55-302;

1134 (n) Section 58-60-205;

1135 (o) Section 58-60-305;

1136 (p) Section 58-60-405;

1137 (q) Section 58-60-506;

1138 (r) Section 58-61-304;

1139 (s) Section 58-63-302;

1140 (t) Section 58-64-302;

1141 (u) Section 58-67-302;

1142 (v) Section 58-68-302;

1143 (w) Section 58-69-302;

1144 (x) Section 58-70a-302;

1145 (y) Section 58-70b-302;

1146 (z) Section 58-71-302; or

1147 (aa) Section 58-73-302.";

1148 (2) Subsection 58-1-301.5(5) enacted in S.B. 44 be amended to read:

1149 "(5) To fulfill an applicable criminal background check requirement, an applicant

- 1150 shall:
- 1151 (a) submit fingerprints in a form acceptable to the division at the time the applicant
- 1152 files a license application or a registration; and
- 1153 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
- 1154 Identification and the Federal Bureau of Investigation regarding the application.";
- 1155 (3) Subsection 58-1-301.5(8) enacted in S.B. 44 be amended to read:
- 1156 "(8)(a)(i) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if
- 1157 the criminal background check required under this section demonstrates, after the
- 1158 applicant is licensed or registered, that the applicant failed to accurately disclose a
- 1159 criminal history, the division may provide notice to the applicant that the license or
- 1160 registration is immediately and automatically revoked.
- 1161 (ii) If a massage establishment owner has a criminal conviction or pending criminal
- 1162 charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime
- 1163 listed by rule made by the division in collaboration with the board in accordance with
- 1164 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an
- 1165 application for registration of a massage establishment.
- 1166 (b)(i) An individual whose license has been revoked in accordance with Subsection
- 1167 (8)(a) is entitled to a hearing to challenge the revocation.
- 1168 (ii) A registered massage establishment for which the registration has been revoked
- 1169 in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.
- 1170 (c) The division shall conduct the hearing described in this Subsection (8) in
- 1171 accordance with Title 63G, Chapter 4, Administrative Procedures Act.";
- 1172 (4) Subsection 58-47b-302(6)(d) enacted in H.B. 278 be amended to read:
- 1173 "(d) consent to, and complete, a criminal background check, described in Section
- 1174 58-1-301.5."; and
- 1175 (5) Subsection 58-47b-302.2(2)(d)(i) enacted in H.B. 278 be amended to read:
- 1176 "(d)(i) consent to, and complete, a criminal background check, described in Section
- 1177 58-1-301.5;".