

THE NORTH CAROLINA MESSAGE AND BODYWORK THERAPY PRACTICE ACT

NOTE: This legislation was originally signed into law by Governor James B. Hunt on November 6, 1998, and was amended in 2003 and 2005

NORTH CAROLINA GENERAL STATUTES

ARTICLE 36

Massage and Bodywork Therapy Practice

§ 90-620. Short title.

This Article shall be known as the North Carolina Massage and Bodywork Therapy Practice Act.

§ 90-621. Declaration of purpose.

The General Assembly recognizes that the improper practice of massage and bodywork therapy is potentially harmful to the public. Mandatory licensure of those engaged in the practice of massage and bodywork therapy is necessary to ensure minimum standards of competency and to protect the public health, safety, and welfare.

§ 90-622. Definitions.

The following definitions apply in this Article:

- (1) **Board.** The North Carolina Board of Massage and Bodywork Therapy.
- (2) **Board-approved school.** Any massage and bodywork therapy school or training program in this State or another state that has met the criteria established by the Board.

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- (3) **Massage and bodywork therapy.** Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:
- a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
 - b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
 - c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.
- (4) **Massage and bodywork therapist.** A person licensed under this Article.
- (5) **Practice of massage and bodywork therapy.** The application of massage and bodywork therapy to any person for a fee or other consideration. "Practice of massage and bodywork therapy" does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, prescription of medicines, or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

§ 90-623. License required.

(a) A person shall not practice or hold out himself or herself to others as a massage and bodywork therapist without first applying for and receiving from the Board a license to engage in that practice.

(b) A person holds out himself or herself to others as a massage and bodywork therapist when the person adopts or uses any title or description including "massage therapist" "bodywork therapist", "masseur", "masseuse", "massagist", "somatic practitioner", "body therapist", "structural integrator", or any derivation of those terms that implies this practice.

(c) It shall be unlawful to advertise using the term "massage therapist" or "bodywork therapist" or any other term that implies a soft tissue technique or method in any public or private publication or communication by a person not licensed under this Article as a massage and bodywork therapist. Any person who holds a license to practice as a massage and bodywork therapist in this State may use the title "Licensed Massage and Bodywork Therapist". No other person shall

assume this title or use an abbreviation or any other words, letters, signs, or figures to indicate that the person using the title is a licensed massage and bodywork therapist. An establishment employing or contracting with persons licensed under this Article may advertise on behalf of those persons.

§ 90-624. Exemptions.

Nothing in this Article shall be construed to prohibit or affect:

- (1) The practice of a profession by persons who are licensed, certified, or registered under other laws of this State and who are performing services within their authorized scope of practice.
- (2) The practice of massage and bodywork therapy by a person employed by the government of the United States while the person is engaged in the performance of duties prescribed by the laws and regulations of the United States.
- (3) The practice of massage and bodywork therapy by persons duly licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally called into this State to teach a course related to massage and bodywork therapy or to consult with a person licensed under this Article.
- (4) Students enrolled in a Board-approved school while completing a clinical requirement for graduation that shall be performed under the supervision of a person licensed under this Article.
- (5) A person giving massage and bodywork therapy to members of that person's immediate family.
- (6) The practice of movement educators such as dance therapists or teachers, yoga teachers, personal trainers, martial arts instructors, movement repatterning practitioners, and
- (7) The practice of techniques that are specifically intended to affect the human energy field.
- (8) A person employed by or contracting with a not-for-profit community service organization to perform massage and bodywork therapy on persons who are members of the not-for-profit community service organization and are of the same gender as the person giving the massage or bodywork therapy.

§ 90-625. North Carolina Board of Massage and Bodywork Therapy.

(a) The North Carolina Board of Massage and Bodywork Therapy is created. The Board shall consist of seven members who are residents of this State and are as follows:

- (1) Five members shall be massage and bodywork therapists who have been licensed under this Article and have been in the practice of massage and bodywork therapy for at least five of the last seven years prior to their serving on the Board. The appointments may be made from lists provided by the North Carolina Therapeutic Massage and Bodywork Task Force. Consideration shall be given to geographical distribution, practice setting, clinical specialty, and other factors that will promote diversity of the profession on the Board. Two of the five members shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, two shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the Governor.
- (2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90 of the General Statutes. The appointment shall be made by the Governor and may be made from a list provided by the North Carolina Medical Society.
- (3) One member shall be a member of the general public who shall not be licensed under Chapter 90 of the General Statutes or the spouse of a person who is so licensed, or have any financial interest, directly or indirectly, in the profession regulated under this Article. The appointment shall be made by the Governor.

(b) Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

(c) Each member of the Board shall serve for a term of three years, ending on June 30 of the last year of the term. A member shall not be appointed to serve more than two consecutive terms.

(d) The Board shall elect annually a chair and other officers as it deems necessary. The Board shall meet as often as necessary for the conduct of business but no less than twice a year. The Board shall establish procedures governing the calling, holding, and conducting of regular and special meetings. A majority of the Board shall constitute a quorum.

(e) Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(f) Members may be removed by the official who appointed the member for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

§ 90-626. Powers and duties.

The Board shall have the following powers and duties:

- (1) Represent the diversity within the profession at all times when making decisions and stay current and informed regarding the various branches of massage and bodywork therapy practice.
- (2) Evaluate the qualifications of applicants for licensure under this Article.
- (3) Issue, renew, deny, suspend, or revoke licenses under this Article.
- (4) Reprimand or otherwise discipline licensees under this Article.
- (5) Conduct investigations to determine whether violations of this Article exist or constitute grounds for disciplinary action against licensees under this Article.
- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a contested case, as defined in G.S. 150B-2(2), arises under this Article.
- (7) Employ professional, clerical, or other special personnel necessary to carry out the provisions of this Article and purchase or rent necessary office space, equipment, and supplies.
- (8) Establish reasonable fees for applications for examination, certificates of licensure and renewal, and other services provided by the Board.
- (9) Adopt, amend, or repeal any rules necessary to carry out the purposes of this Article and the duties and responsibilities of the Board, including rules related to the approval of massage and bodywork therapy schools, continuing education providers, examinations for licensure, the practice of advanced techniques or specialties, and massage and bodywork therapy establishments. Any rules adopted or amended shall take into account the educational standards of national bodywork and massage therapy associations and professional organizations.

- (10) Appoint from its own membership one or more members to act as representatives of the Board at any meeting where such representation is deemed desirable.
- (11) Maintain a record of all proceedings and make available to certificate holders and other concerned parties an annual report of the Board.
- (12) Adopt a seal containing the name of the Board for use on all certificates and official reports issued by it.
- (13) Provide a system for grievances to be presented and resolved.
- (14) Assess civil penalties pursuant to G.S. 90-634.1.
- (15) Assess the costs of disciplinary actions pursuant to G.S. 90-634.1(d).

The powers and duties set out in this section are granted for the purpose of enabling the Board to safeguard the public health, safety, and welfare against unqualified or incompetent practitioners and are to be liberally construed to accomplish this objective.

§ 90-627. Custody and use of funds.

All fees and other moneys collected and received by the Board shall be used for the purposes of implementing this Article.

§ 90-628. Expenses and fees.

(a) All salaries, compensation, and expenses incurred or allowed for the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article or from funds received from other sources. In no case shall any salary, expense, or other obligations of the Board be charged against the General Fund.

(b) The Board may impose the following fees up to the amounts listed below:

(1)	Application for examination	\$200.00
(2)	License fee	150.00
(3)	License renewal	100.00
(4)	Late renewal penalty	75.00
(5)	License by reciprocity	50.00
(6)	Duplicate license	25.00
(7)	Provisional license	150.00

§ 90-629. Requirements for licensure.

Upon application to the Board and the payment of the required fees, an applicant may be licensed as a massage and bodywork therapist if the applicant meets all of the following qualifications:

- (1) Has obtained a high school diploma or equivalent.
- (2) Is 18 years of age or older.
- (3) Is of good moral character as determined by the Board.
- (4) Has successfully completed a course of study consisting of a minimum of 500 classroom hours of supervised instruction at a Board-approved school.
- (5) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission of Certifying Agencies (NCCA) and is in good standing with such agency or has successfully passed an examination administered or approved by the Board.

§ 90-630. Reciprocity.

(a) An applicant shall be eligible for licensure if (i) the applicant has been licensed in another state within five years of the application to the Board and the other state has standards for massage and bodywork therapists that are substantially equivalent to those in this State; (ii) the applicant holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork or another agency that meets NCCA standards; or (iii) the applicant meets special requirements established by the Board.

(b) Upon receipt of an application for reciprocity, the Board shall contact each jurisdiction that has previously certified or licensed the applicant to determine whether there are disciplinary proceedings or unresolved complaints pending against the applicant. In the event a disciplinary proceeding or an unresolved complaint is pending, the applicant shall not be licensed until the proceeding or the complaint has been resolved in the applicant's favor.

(c) Reciprocity may not be granted if the state in which the applicant is licensed has not granted a similar reciprocity to licensees in this State.

§ 90-631. Massage and bodywork therapy schools.

(a) The Board shall establish rules for the approval of massage and bodywork therapy schools. These rules shall include:

- (1) Basic curriculum standards that ensure graduates have the education and skills necessary to carry out the safe and effective practice of massage and bodywork therapy.
- (2) Standards for faculty and learning resources.
- (3) Requirements for reporting changes in instructional staff and curriculum.
- (4) A description of the process used by the Board to approve a school.

Any school that offers a training program in massage and bodywork therapy may make application for approval to the Board. The Board shall grant approval to schools, whether in this State or another state, that meet the criteria established by the Board. The Board shall maintain a list of approved schools and a list of community college programs operating pursuant to subsection (b) of this section.

(b) A massage and bodywork therapy program operated by a North Carolina community college that is accredited by the Southern Association of Colleges and Schools is exempt from the approval process, licensure process, or both, established by the Board. The college shall certify annually to the Board that the program meets or exceeds the minimum standards for curriculum, faculty, and learning resources established by the Board. Students who complete the program shall qualify for licenses from the Board as if the program were approved, licensed, or both, by the Board.

(c) A massage and bodywork therapy program operated by a degree or diploma granting college or university that offers a degree or diploma in massage therapy and is accredited by any accrediting agency that is recognized by the United States Department of Education and is licensed by the North Carolina Community College System or The University of North Carolina Board of Governors is exempt from the approval process, licensure process, or both, established by the Board. The college or university shall certify annually to the Board that the program shall qualify for licenses from the Board as if the program were approved, licensed, or both, by the Board.

§ 90-632. License renewal and continuing education.

The license to practice under this Article shall be renewed every two years. When renewing a license, each licensee shall submit to the Board evidence of the successful completion of at least 25 hours of study, as approved by the Board, during the immediately preceding two years, in the practice of massage and bodywork therapy.

§ 90-633. Disciplinary action.

The Board may deny, suspend, revoke, or refuse to license a massage and bodywork therapist or applicant for any of the following:

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.
- (2) The use of drugs or intoxicating liquors to an extent that affects professional competency.
- (3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law until proof of rehabilitation can be established.
- (4) Conviction of a felony or other public offense involving moral turpitude until proof of rehabilitation can be established.
- (5) An adjudication of insanity or incompetency until proof of recovery from the condition can be established.
- (6) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of these provisions or rules.
- (7) The commission of an act of malpractice, gross negligence, or incompetency.
- (8) Practice as a licensee under this Article without a valid certificate or renewal.
- (9) Engaging in conduct that could result in harm or injury to the public.
- (10) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.
- (11) Falsely holding out himself or herself as licensed or certified in any discipline of massage and bodywork therapy without successfully completing training approved by the Board in that specialty.

§ 90-634. Enforcement; injunctive relief.

(a) It is unlawful for a person not licensed or exempted under this Article to engage in any of the following:

- (1) Practice of massage and bodywork therapy.
- (2) Advertise, represent, or hold out himself or herself to others to be a massage and bodywork therapist.
- (3) Use any title descriptive of any branch of massage and bodywork therapy, as provided in G.S. 90-623, to describe his or her practice.

(b) A person who violates subsection (a) of this section shall be guilty of a Class 1 misdemeanor.

(c) The Board may make application to superior court for an order enjoining a violation of this Article. Upon a showing by the Board that a person has violated or is about to violate this Article, the court may grant an injunction, restraining order, or take other appropriate action.

§ 90-634.1. Civil penalties; disciplinary costs.

(a) Authority to Assess Civil Penalties. - The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. - Before imposing and assessing a civil penalty, the Board shall consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. - The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) Costs. - The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board.

§ 90-635. Third-party reimbursement.

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article.

§ 90-636. Regulation by county or municipality.

Nothing in this Article shall be construed to prohibit a county or municipality from regulating persons covered by this Article, however, a county or municipality may not impose regulations that are inconsistent with this Article.