

SENATE No. 2621

Senate, July 19, 2018 – Text of the Senate Bill to regulate bodywork therapy (being the text of Senate document number 2599, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to regulate bodywork therapy.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith require the division of professional licensure to license bodywork therapists, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 98 of chapter 13 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following subsection:-

4 (a) There shall be within the division of professional licensure a board of registration of
5 massage therapy and bodyworks. The board shall consist of 7 members who shall be appointed
6 by the governor for terms of 3 years, 3 of whom shall be licensed massage therapists who have
7 been actively engaged in the practice of massage therapy in the commonwealth for not less than
8 5 years immediately before their appointments, 2 of whom shall be licensed bodywork therapists
9 or bodyworkers who have been actively engaged in the practice of bodyworks in the
10 commonwealth for not less than 5 years immediately before their appointments; 1 of whom shall
11 be a law enforcement representative whose area of focus is human trafficking and 1 of whom

12 shall be a consumer who is familiar with the massage therapy or bodyworks therapy fields. The
13 members shall be residents of the commonwealth and shall be subject to chapter 268A.

14 SECTION 2. Said chapter 13 is hereby further amended by striking out section 99, as so
15 appearing, and inserting in place thereof the following section:-

16 Section 99. (a) The board shall: (i) administer and enforce sections 227 to 235, inclusive,
17 of chapter 112; (ii) adopt rules and regulations governing the licensure of massage therapists and
18 bodyworks therapists, the practice of massage therapy, bodyworks and the operation of massage
19 schools and bodyworks schools to promote public health, welfare and safety; (iii) establish
20 standards of professional and ethical conduct; (iv) establish standards for continuing education
21 reflecting acceptable national standards; and (v) investigate complaints, conduct inspections,
22 review billing and treatment records and set and administer penalties as defined in sections 61 to
23 65E, inclusive, and sections 232 to 235, inclusive, of said chapter 112 for fraudulent, deceptive
24 or professionally incompetent and unsafe practices and for violations of rules and regulations
25 promulgated by the board.

26 (b) The board shall make available to the public a list of licensed massage therapists,
27 bodyworks therapists and bodyworkers. The board shall establish by regulation a code of ethics.

28 (c) The board shall adopt rules and regulations to differentiate among varying scopes of
29 practice within bodywork therapy, as defined by section 227 of chapter 112, and appropriate
30 licensure restrictions to ensure that a bodyworks therapist operates within the authorized scope of
31 practice for which the bodyworks therapist has demonstrated satisfactory competency to the
32 board. The board shall host not less than 2 public sessions to solicit information from bodywork
33 therapists to inform the rules and regulations.

34 (d) The board may exempt a practice that would otherwise fall under the definition of
35 “bodywork”, “bodyworks” or “bodywork therapy”, as defined in section 227 of chapter 112,
36 from regulation by the board if the practice is otherwise licensed or regulated by a professional
37 organization or credentialing body.

38 SECTION 3. Section 227 of chapter 112 of the General Laws, as so appearing, is hereby
39 amended by inserting after the word “therapy”, in line 4, the following words:- and bodyworks.

40 SECTION 4. Said section 227 of said chapter 112, as so appearing, is hereby further
41 amended by inserting after the definition of “Board”, the following 2 definitions:-

42 “Bodywork”, “bodyworks” or “bodywork therapy”, the practice of a person who uses
43 touch, words or directed movement to deepen awareness of patterns of movement in the body, or
44 the affectation of the human energy system or acupoints or Qi meridians of the human body
45 while engaged within the scope of practice of a profession with established standards and ethics;
46 provided, however, that such services shall not be designated or implied to be massage or
47 massage therapy; and provided further, that “bodywork”, “bodyworks” and “bodywork therapy”
48 shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint
49 manipulations or any services or procedures for which a license to practice medicine,
50 acupuncture, chiropractic, occupational therapy, physical therapy or podiatry is required by law.

51 “Bodyworker”, “bodywork therapist” or “bodyworks therapist”, a person licensed by the
52 board who instructs or administers bodyworks or bodyworks therapy for compensation.

53 SECTION 5. Said section 227 of said chapter 112, as so appearing, is hereby further
54 amended by striking out the definitions of “Licensed massage school” and “Licensed massage
55 therapy salon” and inserting in place thereof the following 2 definitions:-

56 “Licensed massage school” or “licensed bodywork school”, a facility that is licensed by
57 the office of private occupational school education pursuant to section 263 or any other state or
58 federal agency or department after meeting minimum standards for training, facilities, instructors
59 and curriculum as determined by the board in accordance with sections 228 to 235, inclusive.

60 “Licensed massage therapy facility” or “licensed bodywork therapy facility”, a place,
61 office, clinic or establishment licensed by the board to offer massage or bodywork services.

62 SECTION 6. Said chapter 112 is hereby further amended by inserting after section 227
63 the following section:-

64 Section 227A. A city or town may adopt an ordinance or by-law relative to health and
65 safety of the practice of bodywork therapy that is not inconsistent with sections 227 to 235,
66 inclusive; provided, however, that a local ordinance that pertains to bodywork therapy in effect
67 prior to July 1, 2018 and that is consistent with and that may exceed the requirements of said
68 sections 227 to 235, inclusive, may remain in effect.

69 SECTION 7. Said chapter 112 is hereby further amended by striking out section 228, as
70 so appearing, and inserting in place thereof the following section:-

71 Section 228. (a) A person shall not hold the person’s self out to others as a massage
72 therapist, bodywork therapist or bodyworker or practice massage, massage therapy, bodyworks
73 or bodyworks therapy unless the person holds a valid license issued in accordance with this
74 chapter. A person licensed to practice massage or massage therapy or bodyworks or bodyworks
75 therapy shall not perform: (i) diagnosis of illness or disease; (ii) high velocity, low-amplitude
76 thrust applied to a joint; (iii) electrical stimulation; (iv) application of ultrasound; (v) exercise
77 and prescription of medicines.

78 (b) The following practitioners shall be exempt from the licensure requirements of this
79 section:

80 (i) a person who: (A) is otherwise licensed, certified or registered under the General
81 Laws; (B) is performing services within the person's authorized scope of practice; and
82 (C) does not hold the person's self out to be a massage therapist, bodywork therapist or
83 bodyworker;

84 (ii) a person who is duly licensed, registered or certified in another state, territory, the
85 District of Columbia or a foreign country when temporarily called into the
86 commonwealth to teach a course related to massage therapy or bodyworks therapy or to
87 consult with a person licensed as a massage therapist or bodywork therapist or
88 bodyworker under this chapter;

89 (iii) a student of massage therapy or bodyworks therapy who is enrolled in a licensed
90 massage or bodywork school program for massage or bodywork and is performing work
91 as a required component of the student's course of study at such school; provided,
92 however, that the student shall not hold the student's self out as a licensed massage therapist or
93 bodywork therapist under this chapter and shall not receive compensation for the work;

94 (iv) a person giving massage or bodywork therapy to a member of that person's
95 immediate family for which the person received no compensation;

96 (v) a person, duly licensed, registered or certified in another state, territory, the District of
97 Columbia or a foreign country who is incidentally in the commonwealth to provide
98 service as part of an emergency response team working in conjunction with disaster relief
99 officials; and

100 (vi) a person giving massage or bodywork in a sporting, health or other event, whether on
101 a single day or on consecutive days, that is non-compensatory and under the supervision
102 of a licensed massage therapist, bodywork therapist or bodyworker.

103 SECTION 8. Said chapter 112 is hereby further amended by striking out section 229, as
104 most recently amended by section 74 of chapter 6 of the acts of 2017, and inserting in place
105 thereof the following section:-

106 Section 229. (a) A person who desires to engage in the practice of massage therapy shall
107 apply on a form furnished by the board that shall be signed and sworn to by the applicant. Each
108 application shall be accompanied by payment of the fee prescribed by the executive office for
109 administration and finance pursuant to section 3B of chapter 7. Upon submission of a completed
110 application to the board and the payment of the required fee, the board may issue a license to
111 practice as a massage therapist to an applicant who: (i) has obtained a high school diploma or its
112 equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference,
113 with at least 1 being from an employer or professional in the massage therapy or medical field;
114 (iv) is of good moral character, as determined by the discretion of the board; (v) has successfully
115 completed a course of study consisting of not less than 500 classroom hours or an equivalent
116 number of credit hours of supervised instruction at a licensed massage school; (vi) has not been
117 convicted in any jurisdiction of sexually-related crime or a felony for the 7 years immediately
118 before the date of application; (vii) provides proof of professional liability coverage; and (viii)
119 demonstrates the professional competence that may be required by the board's regulations.

120 (b) A person who desires to engage in the practice of bodyworks shall apply on a form
121 furnished by the board that shall be signed and sworn to by the applicant. Each application shall

122 be accompanied by payment of the fee prescribed by the executive office for administration and
123 finance pursuant to section 3B of chapter 7. Upon submission of a completed application to the
124 board and the payment of the required fee, the board may issue a license to practice as a
125 bodyworks therapist to an applicant who: (i) has obtained a high school diploma or its
126 equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference,
127 with at least 1 being from an employer or professional in the bodywork or medical field; (iv) is
128 of good moral character, as determined by the discretion of the board; (v) has successfully
129 completed a course of study or supervised instruction at a licensed bodyworks school that has
130 been determined appropriate by the board; (vi) has not been convicted in any jurisdiction of
131 sexually-related crime or a felony for the 7 years immediately before the date of application; (vii)
132 provides proof of professional liability coverage; and (viii) demonstrates the professional
133 competence that may be required by the board's regulations.

134 (c) The commissioner of the division of professional licensure shall determine the
135 renewal cycle and renewal period for massage therapy and bodyworks therapy licenses. Each
136 person licensed in accordance with these sections shall apply to the board for renewal of the
137 person's license not later than the expiration date, as determined by the director, unless the
138 license was revoked, suspended or canceled earlier by the board as a result of a disciplinary
139 proceeding instituted pursuant to this chapter. Applications for renewal shall be made on forms
140 approved by the board and accompanied by payment of a renewal fee, as prescribed by the
141 executive office for administration and finance pursuant to section 3B of chapter 7; provided,
142 however, that the fee shall not be less than \$100.

143 (d) As a condition of license renewal, a licensed massage therapist or licensed
144 bodyworks therapist or bodyworker shall furnish the board with satisfactory proof that the

145 licensee: (i) has not been convicted in any jurisdiction of a sexually-related crime or a crime
146 involving moral turpitude since the original application for licensure; (ii) has professional
147 liability coverage; and (iii) has completed the continuing education requirements that reflect
148 acceptable national standards and have been reviewed and approved by the board.

149 Upon satisfactory compliance with the licensing requirements for massage therapists,
150 bodyworks therapists or bodyworkers and successful completion of the continuing education
151 requirements, the board shall issue a renewal license showing that the holder is entitled to be
152 licensed for the renewal period. The board may provide for the late renewal of a license that has
153 lapsed and may require payment of a late fee. All licensing and application fees and
154 administrative fines collected pursuant to sections 227 to 235, inclusive, shall be deposited into
155 the Division of Professional Licensure Trust Fund established in section 35V of chapter 10.

156 SECTION 9. Section 230 of said chapter 112, as appearing in the 2016 Official Edition,
157 is hereby amended by inserting after the word “therapists”, in line 2, the following words:- ,
158 bodywork therapists or bodyworkers.

159 SECTION 10. Said chapter 112 is hereby further amended by striking out section 231, as
160 so appearing, and inserting in place thereof the following section:-

161 Section 231. The board may grant a license to an applicant for a bodywork therapist
162 license who: (i) (A) provides documentation, acceptable to the board, that demonstrates that the
163 applicant has provided an appropriate number of hours of bodyworks therapy, as determined by
164 the board, to members of the public for compensation; (B) has been authorized to practice
165 bodywork by the municipal board of health within the commonwealth; provided, however, that
166 the authorization shall be valid not more than 2 years after the date of application; or (C)

167 provides proof of the successful passage of a board approved examination administered by a
168 national organizational or board accredited by the National Commission of Certifying Agencies
169 and approved by the National Organization for Competency Assurance; (ii) submits a completed
170 application and pays the necessary fee prescribed by the executive office for administration and
171 finance pursuant to section 3B of chapter 7; (iii) is of good moral character, as determined by the
172 discretion of the board; and (iv) provides proof of professional liability coverage.

173 SECTION 11. Said chapter 112 is hereby further amended by striking out section 232, as
174 so appearing, and inserting in place thereof the following section:-

175 Section 232. (a) The board shall conduct inspections and investigate all complaints filed
176 that relate to the proper practice of massage therapy or bodyworks therapy, the operation of a
177 massage therapy or bodywork facility and any violation of sections 227 to 235, inclusive, or a
178 rule or regulation of the board. Such a complaint may be brought by any person or the board
179 may, on its own, initiate a complaint.

180 (b) The board shall be under the supervision of the division of professional licensure and
181 shall have all the authority conferred under sections 61 to 65E, inclusive. For the purposes of this
182 section and sections 61 to 65E, inclusive, conduct that places into question the holder's
183 competence to practice massage therapy or bodywork therapy or operate a massage or
184 bodyworks facility shall include, but not be limited to: (i) committing fraud or misrepresentation
185 in obtaining a license; (ii) criminal conduct that the board determines to be of such a nature as to
186 render the person unfit to practice as a licensed massage therapist, bodyworks therapist or
187 bodyworker or to operate a licensed massage therapy or bodywork facility, as evidenced by
188 criminal proceedings that resulted in a conviction, guilty plea or plea of nolo contendere or an

189 admission of sufficient facts; (iii) violating any rule or regulation of the board; (iv) failing to
190 cooperate with the board or its agents in the conduct of an inspection or investigation; (v) failing
191 to fulfill any continuing education requirements set out by the board; (vi) violating an ethical
192 standard that the board determines to be of such a nature as to render the person unfit to practice
193 as a massage therapist or bodyworks therapist or bodyworker or to operate a licensed massage
194 therapy or bodywork facility, including, but not limited to: (A) inappropriate conduct or touching
195 in the practice of massage therapy or bodyworks therapy; (B) offering medical opinion or
196 diagnosis; or (C) negligence in the course of professional practice.

197 The board may issue an order to a licensee directing the licensee to cease and desist from
198 unethical or unprofessional conduct if the board finds, after the opportunity for a hearing, that the
199 licensee has engaged in such conduct.

200 (c) A massage therapist, bodyworks therapist or bodyworker whose license to practice is
201 suspended for more than 1 year for professional misconduct with regard to insurance claims shall
202 not own, operate, practice in or be employed by another massage therapist, bodywork therapist
203 or a physical therapist or chiropractor, in any capacity, until the license is reinstated by the board.
204 A massage therapist or bodywork therapist whose license is suspended for a second offense with
205 regard to insurance claims shall have the license permanently revoked and may not own, operate,
206 practice in or be employed by a business that provides massage therapy, bodywork therapy,
207 physical therapy or chiropractic care.

208 (d) Nothing in this section shall limit the board's authority to impose sanctions by consent
209 agreements that are considered reasonable and appropriate by the board. A person aggrieved by a

210 disciplinary action taken by the board pursuant to this section or section 235 may, pursuant to
211 section 64, file a petition for judicial review.

212 SECTION 12. Said chapter 112 is hereby further amended by striking out section 233, as
213 most recently amended by section 75 of chapter 6 of the acts of 2017, and inserting in place
214 thereof the following section:-

215 Section 233. The board shall establish standards to be met by the massage therapy or
216 bodywork schools. The board shall approve the massage therapy or bodywork school curriculum,
217 training, facilities and instructors. A school or entity shall not teach massage therapy or
218 bodywork without prior approval by the board unless licensed by the division of professional
219 licensure pursuant section 263 or other state or federal agency or department. A license shall not
220 be issued to or renewed for a school that teaches massage therapy unless it offers training of at
221 least 1 hour in domestic violence and sexual assault awareness and requires its students to attend
222 the training.

223 SECTION 13. Section 234 of said chapter 112, as appearing in the 2016 Official Edition,
224 is hereby amended by inserting after the words “massage therapy”, in line 2, the following
225 words:- and bodyworks.

226 SECTION 14. Section 235 of said chapter 112, as so appearing, is hereby amended by
227 inserting after the word “means”, in line 25, the following words:- or through online advertising
228 means or forums.

229 SECTION 15. Said section 235 of said chapter 112, as so appearing, is hereby further
230 amended by striking out subsection (b) and inserting in place thereof the following 2
231 subsections:-

232 (b) Only a person duly licensed under this chapter shall be designated as a “bodywork
233 therapist” and entitled to use the terms “bodywork”, “bodyworks”, “bodyworker”, “bodywork
234 therapy”, “bodywork therapist” and “bodyworks therapist” when advertising or printing
235 promotional material. A person who uses such a term in the person’s professional title without
236 being authorized to do so shall be subject to discipline by the board. A person who: (i)
237 knowingly aids and abets another to use such a term when the person is not authorized to do so;
238 or (ii) knowingly employs a person not authorized to use such a term in the course of the
239 employment, shall be subject to a disciplinary proceeding before the board.

240 It shall be a violation of this chapter for a person to advertise: (i) as a bodywork therapist,
241 bodyworker or bodywork facility unless the person has an employee who holds a valid license
242 under this chapter; (ii) by combining advertising for a licensed bodywork therapy service with
243 escort or dating services; (iii) as performing bodywork in a form in which the person has not
244 received training or of a type that is not licensed or otherwise recognized by law or
245 administrative rule; or (iv) by using any term other than “bodywork”, “bodyworks”,
246 “bodyworker”, “bodywork therapy”, “bodywork therapist” or “bodyworks therapist” to refer to
247 the service.

248 As used in this section, the term “advertise” shall include, but not be limited to: (i) the
249 issuance of a card, sign or device to another; (ii) the causing, permitting or allowing of a sign or
250 marking on or in a building, vehicle or structure; (iii) advertising in a newspaper or magazine, on
251 television or through electronic means or online advertising means or forums; (iv) a listing or
252 advertising in a directory under a classification or heading that includes the word “bodywork”,
253 “bodyworks”, “bodyworker”, “bodywork therapy”, “bodywork therapist” or “bodyworks
254 therapist”; or (v) a commercial broadcast by airwave transmission.

255 (c) A person who: (i) is otherwise licensed, certified or registered under the law; (ii) is
256 performing services within the person's authorized scope of practice; and (iii) does not hold the
257 person's self out to be a massage therapist or bodywork therapist, shall be exempt from this
258 section.

259 SECTION 16. Section 51 of chapter 140 of the General Laws, as so appearing, is hereby
260 amended by inserting after the word "therapy", in lines 1 and 8, each time it appears, the
261 following words:- or bodyworks.

262 SECTION 17. Subsection (b) of said section 51 of said chapter 140 is hereby amended by
263 striking out the last sentence and inserting in place thereof the following sentence:-

264 A massage therapist, bodyworks therapist or bodyworker, whose license to practice
265 massage therapy or bodywork therapy is revoked or suspended for more than 1 year with regard
266 to insurance claims, shall not own, operate, practice in or be employed by a massage therapy or
267 bodywork therapy office, clinic or other place designated for the practice of massage therapy,
268 bodywork therapy, physical therapy or chiropractic.

269 SECTION 18. Said chapter 140 is hereby further amended by striking out section 52, as
270 so appearing, and inserting in place thereof the following section:-

271 Section 52. A member of the police department of a town may, upon appropriate legal
272 process, enter and inspect any premises in that town used for massage, bodyworks or the giving
273 of vapor baths.

274 SECTION 19. The board of registration of massage therapy and bodyworks established
275 under section 98 of chapter 13 of the General Laws shall promulgate regulations not more than
276 180 days after a quorum of the board is appointed.

277 SECTION 20. All orders, rules and regulations duly made and all licenses and approvals
278 duly granted that are in force immediately before the effective date of this act shall continue in
279 force and shall thereafter be enforced until superseded, revised, rescinded or cancelled in
280 accordance with law by the appropriate board.

281 SECTION 21. The board of registration of massage therapy and bodyworks established
282 under section 98 of chapter 13 of the General Laws shall receive applications for licenses under
283 section 231 of chapter 112 of the General Laws not later than July 1, 2019.

284 SECTION 22. This act shall take effect upon its passage.