

SENATE No. 168

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating bodyworks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Maura Healey</i>	<i>Attorney General</i>	
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/29/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/23/2019</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/24/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/24/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/24/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>3/11/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/18/2019</i>

SENATE No. 168

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 168) of Mark C. Montigny, Maura Healey, Patricia A. Haddad, Michael O. Moore and other members of the General Court for legislation to regulate bodyworks. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 907 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act regulating bodyworks.

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 at least 1 public session to solicit information from bodywork
33 therapists to inform the rules and regulations.

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

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

38 “Bodywork”, “bodyworks” or “bodywork therapy”, the practice of a person who uses
39 touch, words or directed movement to deepen awareness of patterns of movement in the body, or
40 the affectation of the human energy system or acupoints or Qi meridians of the human body
41 while engaged within the scope of practice of a profession with established standards and ethics;
42 provided, however, that such services shall not be designated or implied to be massage or
43 massage therapy; provided further, that “bodywork”, “bodyworks” and “bodywork therapy” shall
44 include, but not be limited to: the Feldenkrais Method; Reflexology; the Trager Approach;
45 Ayurvedic Therapies, Rolf Structural Integration, Polarity or Polarity Therapy; Polarity Therapy
46 Bodywork; Asian Bodywork Therapy that does not constitute massage as defined in this chapter;
47 Acupressure; Jin Shin Do; Qi Gong; Tui Na; Shiatsu; Body/Mind Centering; and Reiki; and
48 provided further, that “bodywork”, “bodyworks” and “bodywork therapy” shall not include
49 diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any
50 services or procedures for which a license to practice medicine, acupuncture, chiropractic,
51 occupational therapy, physical therapy or podiatry is required by law.

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

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

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

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

63 SECTION 6. Said chapter 112 is hereby further amended by striking out section 228, as
64 so appearing, and inserting in place thereof the following section:-

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

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

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

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

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

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

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

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

95 SECTION 7. Said chapter 112 is hereby further amended by striking out section 229, as
96 most recently amended by section 74 of chapter 6 of the acts of 2017, and inserting in place
97 thereof the following section:-

98 Section 229. (a) A person who desires to engage in the practice of massage therapy shall
99 apply on a form furnished by the board that shall be signed and sworn to by the applicant. Each
100 application shall be accompanied by payment of the fee prescribed by the executive office for
101 administration and finance pursuant to section 3B of chapter 7. Upon submission of a completed
102 application to the board and the payment of the required fee, the board may issue a license to
103 practice as a massage therapist to an applicant who: (i) has obtained a high school diploma or its
104 equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference,
105 with at least 1 being from an employer or professional in the massage therapy or medical field;
106 (iv) is of good moral character, as determined by the discretion of the board; (v) has successfully
107 completed a course of study consisting of not less than 500 classroom hours or an equivalent
108 number of credit hours of supervised instruction at a licensed massage school; (vi) has not been
109 convicted in any jurisdiction of sexually-related crime or a crime involving moral turpitude for
110 the 10 years immediately before the date of application; (vii) provides proof of professional
111 liability coverage; and (viii) demonstrates the professional competence that may be required by
112 the board's regulations.

113 (b) A person who desires to engage in the practice of bodyworks shall apply on a form
114 furnished by the board that shall be signed and sworn to by the applicant. Each application shall
115 be accompanied by payment of the fee prescribed by the executive office for administration and
116 finance pursuant to section 3B of chapter 7. Upon submission of a completed application to the
117 board and the payment of the required fee, the board may issue a license to practice as a

118 bodyworks therapist to an applicant who: (i) has obtained a high school diploma or its
119 equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference,
120 with at least 1 being from an employer or professional in the bodywork or medical field; (iv) is
121 of good moral character, as determined by the discretion of the board; (v) has successfully
122 completed a course of study or supervised instruction at a licensed bodyworks school that has
123 been determined appropriate by the board; (vi) has not been convicted in any jurisdiction of
124 sexually-related crime or a crime involving moral turpitude for the 10 years immediately before
125 the date of application; (vii) provides proof of professional liability coverage; and (viii)
126 demonstrates the professional competence that may be required by the board's regulations.

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

136 (d) As a condition of license renewal, a licensed massage therapist or licensed
137 bodyworks therapist or bodyworker shall furnish the board with satisfactory proof that the
138 licensee: (i) has not been convicted in any jurisdiction of a sexually-related crime or a crime
139 involving moral turpitude since the original application for licensure; (ii) has professional

140 liability coverage; and (iii) has completed the continuing education requirements that reflect
141 acceptable national standards and have been reviewed and approved by the board.

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

149 SECTION 8. Section 230 of said chapter 112, as appearing in the 2016 Official Edition,
150 is hereby amended by inserting after the word “therapists”, in line 2, the following words:- ,
151 bodywork therapists or bodyworkers.

152 SECTION 9. Said chapter 112 is hereby further amended by striking out section 231, as
153 so appearing, and inserting in place thereof the following section:-

154 Section 231. The board may grant a license to an applicant for a bodywork therapist
155 license who: (i) (A) provides documentation, acceptable to the board, that demonstrates that the
156 applicant has provided an appropriate number of hours of bodyworks therapy, as determined by
157 the board, to members of the public for compensation; (B) has been authorized to practice
158 bodywork by the municipal board of health within the commonwealth; provided, however, that
159 the authorization shall be valid not more than 2 years after the date of application; or (C)
160 provides proof of the successful passage of a board approved examination administered by a
161 national organizational or board accredited by the National Commission of Certifying Agencies

162 and approved by the National Organization for Competency Assurance; (ii) submits a completed
163 application and pays the necessary fee prescribed by the executive office for administration and
164 finance pursuant to section 3B of chapter 7; (iii) is of good moral character, as determined by the
165 discretion of the board; and (iv) provides proof of professional liability coverage.

166 SECTION 10. Said chapter 112 is hereby further amended by striking out section 232, as
167 so appearing, and inserting in place thereof the following section:-

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

173 (b) The board shall be under the supervision of the division of professional licensure and
174 shall have all the authority conferred under sections 61 to 65E, inclusive. For the purposes of this
175 section and sections 61 to 65E, inclusive, conduct that places into question the holder's
176 competence to practice massage therapy or bodywork therapy or operate a massage or
177 bodyworks facility shall include, but not be limited to: (i) committing fraud or misrepresentation
178 in obtaining a license; (ii) criminal conduct that the board determines to be of such a nature as to
179 render the person unfit to practice as a licensed massage therapist, bodyworks therapist or
180 bodyworker or to operate a licensed massage therapy or bodywork facility, as evidenced by
181 criminal proceedings that resulted in a conviction, guilty plea or plea of nolo contendere or an
182 admission of sufficient facts; (iii) violating any rule or regulation of the board; (iv) failing to
183 cooperate with the board or its agents in the conduct of an inspection or investigation; (v) failing

184 to fulfill any continuing education requirements set out by the board; (vi) violating an ethical
185 standard that the board determines to be of such a nature as to render the person unfit to practice
186 as a massage therapist or bodyworks therapist or bodyworker or to operate a licensed massage
187 therapy or bodywork facility, including, but not limited to: (A) inappropriate conduct or touching
188 in the practice of massage therapy or bodyworks therapy; (B) offering medical opinion or
189 diagnosis; or (C) negligence in the course of professional practice.

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

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

201 (d) Nothing in this section shall limit the board's authority to impose sanctions by consent
202 agreements that are considered reasonable and appropriate by the board. A person aggrieved by a
203 disciplinary action taken by the board pursuant to this section or section 235 may, pursuant to
204 section 64, file a petition for judicial review.

205 SECTION 11. Said chapter 112 is hereby further amended by striking out section 233, as
206 most recently amended by section 75 of chapter 6 of the acts of 2017, and inserting in place
207 thereof the following section:-

208 Section 233. The board shall establish standards to be met by the massage therapy or
209 bodywork schools. The board shall approve the massage therapy or bodywork school curriculum,
210 training, facilities and instructors. A school or entity shall not teach massage therapy or
211 bodywork without prior approval by the board unless licensed by the division of professional
212 licensure pursuant section 263 or other state or federal agency or department.

213 SECTION 12. Section 234 of said chapter 112, as appearing in the 2016 Official Edition,
214 is hereby amended by inserting after the words “massage therapy”, in line 2, the following
215 words:- and bodyworks.

216 SECTION 13. Section 235 of said chapter 112, as so appearing, is hereby amended by
217 inserting after the word “means”, in line 25, the following words:- or through online advertising
218 means or forums.

219 SECTION 14. Said section 235 of said chapter 112, as so appearing, is hereby further
220 amended by striking out subsection (b) and inserting in place thereof the following 2
221 subsections:-

222 (b) Only a person duly licensed under this chapter shall be designated as a “bodywork
223 therapist” and entitled to use the terms “bodywork”, “bodyworks”, “bodyworker”, “bodywork
224 therapy”, “bodywork therapist” and “bodyworks therapist” when advertising or printing
225 promotional material. A person who uses such a term in the person’s professional title without
226 being authorized to do so shall be subject to discipline by the board. A person who: (i)

227 knowingly aids and abets another to use such a term when the person is not authorized to do so;
228 or (ii) knowingly employs a person not authorized to use such a term in the course of the
229 employment, shall be subject to a disciplinary proceeding before the board.

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

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

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

249 SECTION 15. Section 51 of chapter 140 of the General Laws, as so appearing, is hereby
250 amended by inserting after the word “therapy”, in lines 1 and 8, each time it appears, the
251 following words:- or bodyworks.

252 SECTION 16. Subsection (b) of said section 51 of said chapter 140 is hereby amended by
253 striking out the last sentence and inserting in place thereof the following sentence:-

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

259 SECTION 17. Said chapter 140 is hereby further amended by striking out section 52, as
260 so appearing, and inserting in place thereof the following section:-

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

264 SECTION 18. The board of registration of massage therapy and bodyworks established
265 under section 98 of chapter 13 of the General Laws shall promulgate regulations not more than
266 180 days after a quorum of the board is appointed.

267 SECTION 19. All orders, rules and regulations duly made and all licenses and approvals
268 duly granted that are in force immediately before the effective date of this act shall continue in

269 force and shall thereafter be enforced until superseded, revised, rescinded or cancelled in
270 accordance with law by the appropriate board.

271 SECTION 20. The board of registration of massage therapy and bodyworks established
272 under section 98 of chapter 13 of the General Laws shall receive applications for licenses under
273 section 231 of chapter 112 of the General Laws not later than July 1, 2019.

274 SECTION 21. This act shall take effect upon its passage.