

HOUSE No. 350

The Commonwealth of Massachusetts

PRESENTED BY:

David Henry Argosky LeBoeuf

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 relative to protecting the lineages of Asian bodywork therapies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/20/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/3/2023</i>

HOUSE No. 350

By Representative LeBoeuf of Worcester, a petition (accompanied by bill, House, No. 350) of David Henry Argosky LeBoeuf and Brian W. Murray for legislation to establish a board of registration of Asian bodywork therapy. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

An Act relative to protecting the lineages of Asian bodywork therapies.

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. MGL Chapter 147 is hereby amended to include after Section 62 the
2 following subsection:-

3 (a) There shall be within the division of occupational licensure a board of registration of
4 Asian Bodywork Therapy. The board shall consist of 5 members who shall be appointed by the
5 governor for terms of 3 years chosen from a list of recommended individuals submitted by the
6 American Organization for Bodywork Therapies of Asia (AOBTA®) Massachusetts Chapter or
7 COSP approved school, the National Certification Commission for Acupuncture and Oriental
8 Medicine (NCCAOM)® any other board-approved professional traditional Asian therapy
9 organization or institution engaged in teaching traditional Asian healing therapies, 3 of whom
10 shall be licensed Asian Bodywork Therapists who have been actively engaged in the practice of
11 Asian Bodywork Therapy in the commonwealth for not less than 3 years immediately before
12 their appointments, 1 of whom shall be an individual who is or has been actively engaged in the

13 operation of a licensed Asian Bodywork Therapy school; and 1 of whom shall be a consumer
14 who is familiar with the Asian Bodywork Therapists or comparable Traditional Asian Healing
15 Therapy fields.

16 (b) of the initial members appointed to the board, 2 shall serve for terms of 3 years, 2
17 shall serve for terms of 2 years and 1 shall serve for terms of 1 year. Each member of the board
18 shall hold office until his successor has been appointed. A vacancy in the membership of the
19 board shall be filled for the unexpired term in the manner provided for the original appointment.
20 A member may be removed by the governor for cause.

21 (c) The board shall at its first meeting and, annually thereafter, elect from among its
22 members, by majority vote, a chairman, vice-chairman and secretary. The board shall meet at
23 least once every 3 months and may hold additional meetings as necessary to discharge its duties.
24 Members shall receive no compensation but shall be entitled to reasonable travel expenses.

25 SECTION 2. MGL Chapter 147 is hereby amended to include after Section 62 the
26 following subsection:-

27 (a) The board shall: (i) administer and enforce sections outlined in this bill; (ii) adopt
28 rules and regulations governing the licensure of Asian Bodywork Therapists, the practice of
29 Asian Bodywork Therapy and the operation of Asian Bodywork Therapy schools and programs
30 to promote public health, welfare and safety; (iii) establish standards of professional and ethical
31 conduct (iv) establish standards for continuing education; and (v) investigate complaints, conduct
32 inspections, review billing and treatment records and set and administer penalties for fraudulent,
33 deceptive or professionally incompetent and unsafe practices and for violations of rules and
34 regulations promulgated by the board.

35 (b) The board shall make available to the public a list of licensed Asian Bodywork
36 Therapists as well as a list of each licensed and board-approved facility under its jurisdiction.
37 The board shall establish by regulation a code of ethics.

38 (c) The board shall adopt rules and regulations to differentiate among varying scopes of
39 practice within Asian Bodywork Therapy, to ensure that an Asian Bodywork Therapist operates
40 within the authorized scope of practice for which the Asian Bodywork Therapist has
41 demonstrated satisfactory competency to the board; provided that the board shall require no more
42 than one application for any applicant seeking to practice multiple disciplines under its
43 jurisdiction. The board shall host at least 1 public session to solicit information from qualifying
44 Asian Bodywork Therapists to inform the rules and regulations.

45 (d) The board shall adopt policies and procedures to evaluate and approve out of state
46 schools and programs for licensure, continuing education and grandfathering.

47 SECTION 3. As used in this section and sections [1-14], inclusive, the following words
48 shall, unless the context requires otherwise, have the following meanings:-

49 "Board", the board of registration of Asian Bodywork Therapy.

50 "Asian Bodywork Therapist" or "Asian Bodywork practitioner", a person licensed by the
51 board who instructs or administers Asian Bodywork or Asian Bodywork Therapy for
52 compensation.

53 "Asian Bodywork Therapy", the practice of a person who applies Chinese medical
54 principles in the evaluation and treatment of the body, mind, emotions and spirit, including the
55 electromagnetic or energetic field, which surrounds, infuses and brings that body to life. Asian

56 Bodywork Therapy uses traditional Asian techniques and treatment strategies, primarily to affect
57 and balance the energetic system for the promotion, maintenance and restoration of health. Asian
58 Bodywork Therapy is one of the three professional branches of Chinese Medicine nationally
59 recognized by the National Certification Commission for Acupuncture and Oriental Medicine
60 (NCCAOM). ABT assessment and treatment may include, but is not limited to: touching,
61 stretching, pressing or holding meridians and/or acu-points, primarily with the hands.
62 Appropriately trained practitioners may also use external application of medicinal plants, heat or
63 cold; meditation, dietary, lifestyle and exercise suggestions/recommendations; cupping; gua sha;
64 moxibustion and other adjunct therapies, techniques or practices.

65 “Asian Bodywork Therapy (ABT) shall not include diagnoses, the prescribing of drugs or
66 medicines, any services or procedures outside of the scope of traditional Asian healing therapy
67 and/or for which a license to practice medicine, or podiatry is required by law.

68 “Asian Bodywork Therapy intern”, an Asian Bodywork Therapy student engaged in
69 practical training of Asian Bodywork Therapy on human subjects in an Asian Bodywork
70 Therapy internship program approved by the board of Asian Bodywork Therapy.

71 “Licensed or Board-Approved School or Program”, a school or program of instruction in
72 Asian Bodywork Therapy that meets or exceeds the national education standards set by the
73 American Organization for Bodywork Therapies of Asia (AOBTA®), their successor
74 organizations and/or board approved organizations, other state or federal agency or department
75 and/or after meeting minimum standards as determined by using the CIP Code 51.3502 Title:
76 Asian Bodywork Therapy. Board-Approved Schools and Programs include, but are not limited to
77 members of the AOBTA® Council of Schools and Programs (AOBTA®-COSP).

78 "Licensed or Board-Approved Asian Bodywork Therapy establishment", a place, office,
79 clinic, or facility licensed by the board to offer Asian Bodywork Therapy services.

80 SECTION 4. MGL Chapter 147 is hereby amended to include after Section 62 the
81 following subsection:-

82 (a) No person shall hold themselves out to others as an Asian Bodywork Therapist or
83 Practitioner, practice Asian Bodywork Therapy, unless the person holds a valid license issued in
84 accordance with this chapter. A person licensed to practice Asian Bodywork Therapy shall not
85 perform: (i) diagnosis of illness or disease; (ii) application of ultrasound; (iii) prescription of
86 medicines.

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

89 (i) a person who: (A) is otherwise licensed, certified or registered under the General
90 Laws; (B) is performing services within the person's authorized scope of practice; and (C) does
91 not hold the person's self out to be an Asian Bodywork Therapist.

92 (ii) a person who is duly licensed, registered, certified or operating legally in another
93 state, territory, the District of Columbia or a foreign country when temporarily called into the
94 commonwealth to teach a course related to Asian Bodywork Therapy or to consult with a person
95 licensed as an Asian Bodywork Therapist under this chapter;

96 (iii) a student of Asian Bodywork Therapy who is enrolled in a licensed or board-
97 approved school or program for Asian Bodywork Therapy and is performing work as a required
98 component of the student's course of study at such school, including supervised internships;

99 provided, however, that the student shall not hold the student's self out as a licensed Asian
100 Bodywork Therapist under this chapter and shall not receive compensation for the work;

101 (iv) a person giving Asian Bodywork Therapy to a member of that person's immediate
102 family for which the person received no compensation;

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

106 (vi) a person giving Asian Bodywork Therapy in a sporting, health or other event,
107 whether on a single day or on consecutive days, that is non-compensatory and under the
108 supervision of a licensed Asian Bodywork Therapist.

109 (c) Nothing in this Act prohibits a person from engaging in the personal practice,
110 instruction, or clinical application of Qigong or self-improvement exercises and meditations that
111 are not specifically defined in this Act.

112 (d) Nothing in this Act prohibits a person from engaging in a profession not specifically
113 named or defined within this Act.

114 SECTION 5. MGL Chapter 147 is hereby amended to include after Section 62 the
115 following subsection:-

116 (a) A person who desires to engage in the practice of Asian Bodywork Therapy shall
117 apply on a form furnished by the board that shall be signed and sworn to by the applicant. Each
118 application shall be accompanied by payment of the fee prescribed by the executive office for
119 administration and finance pursuant to this Act. Upon submission of a completed application to

120 the board and the payment of the required fee, the board may issue a license to practice as an
121 Asian Bodywork Therapist to an applicant who: (i) has obtained a high school diploma or its
122 equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference,
123 with at least 1 being from an employer or professional in the Asian Bodywork Therapy or
124 holistic healthcare or medical field; (iv) is of good moral character, as determined by the
125 discretion of the board; (v) (1) has successfully completed a course of study or supervised
126 instruction at a licensed or board-approved Asian Bodywork Therapy school or program that has
127 been determined appropriate by the board; or (2) has had a legal, professional Asian Bodywork
128 Therapy practice in another jurisdiction for no less than 10 years prior to the passage date of this
129 Act and has maintained professional liability insurance without incident; and, either has
130 maintained a relationship as a professional ABT practitioner through the American Organization
131 for Bodywork Therapies of Asia®, the National Certification Commission for Acupuncture and
132 Oriental Medicine, or comparable organization approved by the Board; or, can prove completion
133 of apprenticeship training or provide a certificate of completion of training, or demonstrate
134 competency to the satisfaction of the board; and (vi) provides proof of professional liability
135 coverage; and (vii) demonstrates the professional competence that may be required by the
136 board's regulations. The board shall require no more than one application for any applicant
137 seeking to practice multiple disciplines under its jurisdiction; provided, that said applicant can
138 demonstrate competency in each discipline as determined by the board; provided further, that the
139 board shall collect one fee per application.

140 (b) The commissioner of the division of professional licensure shall determine the
141 renewal cycle and renewal period for Asian Bodywork Therapy licenses. Each person licensed in
142 accordance with these sections shall apply to the board for renewal of the person's license not

143 later than the expiration date, as determined by the board unless the license was revoked,
144 suspended or canceled earlier by the board as a result of a disciplinary proceeding instituted
145 pursuant to this chapter. Applications for renewal shall be made on forms approved by the board
146 and accompanied by payment of a renewal fee, as prescribed by the executive office for
147 administration and finance pursuant to previous statutes provided, however, that the fee shall not
148 be less than \$100.

149 (c) As a condition of license renewal, a licensed Asian Bodywork Therapist shall furnish
150 the board with satisfactory proof that the licensee: (i) has professional liability coverage; and (ii)

151 Upon satisfactory compliance with the licensing requirements for Asian Bodywork
152 Therapists the board shall issue a renewal license showing that the holder is entitled to be
153 licensed for the renewal period. The board may provide for the late renewal of a license that has
154 lapsed and may require payment of a late fee.

155 SECTION 6. MGL Chapter 147 is hereby amended to include after Section 62 the
156 following subsection:-

157 The board may provide reciprocal licenses for registered, certified or licensed Asian
158 Bodywork Therapists from other jurisdictions if the standards of registration, certification or
159 licensure in their jurisdictions are reasonably equivalent to those set forth in previous sections
160 The board shall adopt rules and regulations for the implementation of this section. The fee for a
161 reciprocal license shall be prescribed by the executive office of administration and finance
162 pursuant to previous statutes and shall not be less than \$100. An applicant shall not be granted
163 reciprocity if his license to practice is revoked or suspended by any other jurisdiction. The board,
164 subject to a vote of the majority of its members, may revoke a license if the license, certificate,

165 registration or authority issued by another state or territory of the United States, the District of
166 Columbia, or a foreign state or nation is revoked, canceled, suspended, or otherwise acted
167 against, or if the holder has been disciplined in that jurisdiction, if the basis for the action would
168 constitute a basis for disciplinary action in the commonwealth.

169 SECTION 7. MGL Chapter 147 is hereby amended to include after Section 62 the
170 following subsection:-

171 The board may grant a license to an applicant for an Asian Bodywork Therapist license
172 who: (i) (A) provides documentation, acceptable to the board, that demonstrates that the
173 applicant has met the requirements sets forth in previous statutes, provided an appropriate
174 number of hours of bodyworks therapy, as determined by the board, to members of the public for
175 compensation; (B) has been authorized to practice Asian Bodywork Therapy by the municipal
176 board of health within the commonwealth; provided, however, that the authorization shall be
177 valid not more than 2 years after the date of issuance; (C) provides proof of the successful
178 passage of a board approved examination or certification administered by a national organization
179 listed in statute, or board accredited by the National Commission for Certifying Agencies; or (D)
180 (1) within a period of two years after the effective date of the rules promulgated under this Act,
181 produces proof that he or she has met at least one of the following requirements by the time of
182 application: (2) is a member of the American Organization for Bodywork Therapies of Asia ®
183 (AOBTA®) at a level of membership requiring national competency standards of training,
184 including Certified Practitioner, Registered Instructor or Certified Instructor; or another board
185 approved ABT professional organization, based on a verified minimum level of training,
186 demonstration of competency, and adherence to ethical standards set by their governing body
187 approved by the Board; or (3) has practiced any of the Asian Bodywork Therapy as listed

188 Section 11 for at least 10 years prior to the passage date of this Act; and at least one of the
189 following; has maintained professional liability insurance without incident, or can provide a
190 certificate of completion of training, or prove completion of apprenticeship training, or
191 demonstrate competency to the satisfaction of the board; or (4) is currently certified by the
192 National Certification Commission for Acupuncture and Oriental Medicine® as a Diplomat in
193 Asian Bodywork Therapy [Dipl. ABT (NCCAOM)®]; or (2) An individual who has practiced
194 Asian Bodywork Therapy for a minimum of one year prior to the passage date of this Act, but
195 has not less than 200 hours of formal Traditional Asian Healing Therapies training, may be
196 issued a provisional license under this Section, but with additional training must meet the
197 national recognized competency standards, or become professionally certified with a board-
198 approved ABT organization within 5 years of the approved application; and (ii) submits a
199 completed application and pays the necessary fee prescribed by the executive office for
200 administration and finance (iii) is of good moral character, as determined by the discretion of the
201 board; and (iv) provides proof of professional liability coverage.

202 SECTION 8. MGL Chapter 147 is hereby amended to include after Section 62 the
203 following subsection:-

204 (a) The board shall conduct inspections and investigate all complaints filed that relate to
205 the proper practice of Asian Bodywork Therapy, the operation of an Asian Bodywork Therapy
206 facility and any violation of sections of this statute inclusive, or a rule or regulation of the board.
207 Such a complaint may be brought by any person or the board may, on its own, initiate a
208 complaint.

209 (b) The board shall be under the supervision of the division of professional licensure and
210 shall have all the authority conferred in Mass General Law inclusive. For the purposes of this
211 section and additional sections, conduct that places into question the holder's competence to
212 practice Asian Bodywork Therapy or operate an Asian Bodywork Therapy facility shall include,
213 but not be limited to: (i) committing fraud or misrepresentation in obtaining a license; (ii)
214 criminal conduct that the board determines to be of such a nature as to render the person unfit to
215 practice as a licensed Asian Bodywork Therapist to operate a licensed Asian Bodywork Therapy
216 facility, as evidenced by criminal proceedings that resulted in a conviction, guilty plea or plea of
217 nolo contendere or an admission of sufficient facts; (iii) violating any rule or regulation of the
218 board; (iv) failing to cooperate with the board or its agents in the conduct of an inspection or
219 investigation; (v) failing to fulfill any continuing education requirements set out by the board;
220 (vi) violating an ethical standard that the board determines to be of such a nature as to render the
221 person unfit to practice as an Asian Bodywork Therapist or to operate a licensed Asian
222 Bodywork Therapy facility, including, but not limited to: (A) inappropriate conduct or touching
223 in the practice of Asian Bodywork Therapy; (B) offering medical diagnosis; or (C) negligence in
224 the course of professional practice.

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

228 (c) An Asian Bodywork Therapist whose license to practice is suspended for more than 1
229 year for professional misconduct with regard to insurance claims shall not own, operate, practice
230 in or be employed by another healthcare practice or practitioner, in any capacity, until the license
231 is reinstated by the board. An Asian Bodywork Therapist whose license is suspended for a

232 second offense with regard to insurance claims shall have the license permanently revoked and
233 may not own, operate, practice in or be employed by a business that provides healthcare.

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

238 SECTION 9. MGL Chapter 147 is hereby amended to include after Section 62 the
239 following subsection:-

240 The board shall establish standards to be met by the Asian Bodywork Therapist schools
241 and programs. The board shall approve the Asian Bodywork Therapy school and program
242 curricula, training, facilities and instructors based upon nationally recognized standards of each
243 discipline. A school or program shall not teach Asian Bodywork Therapy without prior approval
244 by the board unless licensed by the division of professional licensure or other state or federal
245 agency or department.

246 SECTION 10. MGL Chapter 147 is hereby amended to include after Section 62 the
247 following subsection:-

248 The board shall adopt regulations necessary to ensure the safe and lawful practice of
249 Asian Bodywork Therapy. Every person receiving a license from the board shall conspicuously
250 display the license in his place of business.

251 SECTION 11. MGL Chapter 147 is hereby amended to include after Section 62 the
252 following subsection:-

253 (a) Only a person duly licensed under this chapter shall be designated as an Asian
254 Bodywork Therapist (ABT) and entitled to use the terms “Asian Bodywork Therapist”, “Asian
255 Bodywork Practitioner” and their abbreviations or derivations, or any specific titles,
256 abbreviations or derivations of Asian Bodywork Therapy forms when advertising or printing
257 promotional material. A person who uses such a term in the person’s professional title without
258 being authorized to do so shall be subject to discipline by the board. A person who: (i)
259 knowingly aids and abets another to use such a term when the person is not authorized to do so;
260 or (ii) knowingly employs a person not authorized to use such a term in the course of the
261 employment, shall be subject to a disciplinary proceeding before the board.

262 Nothing in this section shall prohibit a licensed Asian Bodywork Therapist from using
263 terms reflecting a specific discipline for which they are authorized by the board to practice when
264 advertising or printing promotional material; provided further, that such protected Asian
265 Bodywork Form-specific titles shall include, but not be limited to, Asian Bodywork Therapy,
266 Acupressure, Amma, AMMA Therapy®, Chi Nei Tsang, Five Element Shiatsu, Integrative
267 Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do® Bodymind Acupressure®, Jin Shou Tuina™,
268 Macrobiotic Shiatsu, Okazaki Restorative Therapy, Pacific and Asian Restoration Therapies of
269 Dan Zan Ryu (P.A.R.T. of DZR), Shiatsu, Shiatsu Anma Therapy, Tuina (Tui Na), and Zen
270 Shiatsu.

271 It shall be a violation of this chapter for a person to advertise: (i) as an Asian Bodywork
272 Therapist or Asian Bodywork Therapy facility unless the person has an employee who holds a
273 valid license under this chapter; (ii) by combining advertising for a licensed Asian Bodywork
274 Therapy service with escort or dating services; (iii) as performing Asian Bodywork Therapy in a
275 form in which the person has not received training or of a type that is not licensed or otherwise

276 recognized by law or administrative rule; or (iv) by using any term other than “Asian Bodywork
277 Therapy,” “Asian Bodywork Therapist,” and their form-specific titles and derivations to refer to
278 the service.

279 As used in this section, the term “advertise” shall include, but not be limited to: (i) the
280 issuance of a card, sign or device to another; (ii) the causing, permitting or allowing of a sign or
281 marking on or in a building, vehicle or structure; (iii) advertising in a newspaper or magazine, on
282 television or through electronic means or online advertising means or forums; (iv) any listing or
283 advertising in a directory under a classification or heading that includes the words “Asian
284 Bodywork Therapist” “Asian Bodywork Therapy”, or any of their form-specific titles and
285 derivations; or (v) a commercial broadcast by airwave transmission.

286 (b) Any persons who: (i) is otherwise licensed, certified or registered under the law; (ii) is
287 performing services within the person’s authorized scope of practice; and (iii) does not hold the
288 person’s self out to be an Asian Bodywork Therapist shall be exempt from this section.

289 SECTION 12. MGL Chapter 147 is hereby amended to include after Section 62 the
290 following subsection:-

291 The board of registration of Asian Bodywork Therapy shall promulgate regulations not
292 more than 180 days after a quorum of the board is appointed.

293 SECTION 13. MGL Chapter 147 is hereby amended to include after Section 62 the
294 following subsection:-

295 All orders, rules and regulations duly made and all licenses and approvals duly granted
296 that are in force immediately before the effective date of this Act shall continue in force and shall

297 thereafter be enforced until superseded, revised, rescinded or canceled in accordance with law by
298 the appropriate board.

299 SECTION 14. MGL Chapter 147 is hereby amended to include after Section 62 the
300 following subsection:-

301 The board of registration of Asian Bodywork Therapy shall receive applications for
302 licenses not later than 1 year following passage of this act.