

No. 2009-45

AN ACT

SB 925

Amending the act of October 9, 2008 (P.L.1438, No.118), entitled "An act regulating massage therapy; establishing the State Board of Massage Therapy; providing for funds, for licensure, for disciplinary action, for remedies, for penalties and for preemption," further providing for qualification for licensure and for other professions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 5 and 13 of the act of October 9, 2008 (P.L.1438, No.118), known as the Massage Therapy Law, are amended to read:

Section 5. Qualification for licensure.

(a) Applicants.—An applicant shall be considered to be qualified for a license if the applicant submits proof satisfactory to the board of all of the following:

- (1) The applicant is of good moral character.
- (2) The applicant has a high school diploma or its equivalent.
- (3) The applicant has completed a massage program of at least 600 hours of in-class, postsecondary education instruction approved by the **[State Board of Private Licensed Schools] board at a regionally accredited college or university, Pennsylvania private licensed school or its equivalent as determined by the board.** The program under this paragraph must include training in the human immunodeficiency virus and related risks and training in cardiopulmonary resuscitation.
- (4) The applicant has passed an examination under section 7.
- (5) The applicant has paid a fee as established by the board by regulation.
- (6) The applicant has not been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:
 - (i) At least ten years have elapsed from the date of conviction.
 - (ii) The applicant satisfactorily demonstrates to the board that the applicant has made significant progress in personal rehabilitation since the conviction and that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.

(iii) The applicant otherwise satisfies the qualifications required under this act.

(b) Existing practitioners.—The board shall issue a license to an applicant who, on the effective date of this subsection, complies with all of the following paragraphs:

(1) Is able to demonstrate that the applicant has conducted a business and been an active participant in that business which was mainly the practice of massage therapy.

(2) Meets the qualifications described in subsection (a)(1), (2), (5) and (6).

(3) Complies with one of the following subparagraphs:

(i) Has been in active, continuous practice for at least five years immediately preceding the effective date of this section.

(ii) Has passed a massage therapy examination that is part of a certification program accredited by the National Commission for Certifying Agencies.

(iii) Has completed 500 hours of instruction in massage and related subjects from a massage therapy program approved by the **[State Board of Private Licensed Schools] board at a regionally accredited college or university, Pennsylvania private licensed school or its equivalent as determined by the board.**

(iv) Has:

(A) passed the National Examination for State Licensure (NESL) offered through the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); and

(B) completed 100 hours of instruction in massage and related subjects.

(v) Has:

(A) passed the Massage and Bodywork Licensure Examination (MBLEx) offered through the Federation of State Massage Therapy Boards (FSMTB); and

(B) completed 100 hours of instruction in massage and related subjects.

(c) Temporary practice permit.—

(1) The board may issue a temporary practice permit to an applicant in order to permit the applicant to practice massage therapy during the six-month period after completion of the applicant's education program.

(2) The temporary practice permit issued under paragraph (1) shall be nonrenewable and shall expire on the earlier of:

(i) six months from the date of issuance; or

(ii) the date the applicant fails the licensing examination.

(d) Transferability.—A license and a temporary practice permit are not transferable.

Section 13. Other professions.

Nothing in this act shall be construed as preventing, restricting or requiring licensure of any of the following activities:

(1) The practice of a profession by an individual who is licensed, certified or registered by a Commonwealth agency under other law and who is performing services or advertising within the authorized scope of practice.

(2) The practice of massage therapy by an individual employed by the Federal Government while the individual is engaged in the performance of duties under Federal law.

(3) A student enrolled in a massage therapy education program who is:

(i) conducting massage therapy activities under the supervision of:

(A) a licensee; or

(B) instructors or supervisors who meet the licensing criteria of the Department of Education or the board; and

(ii) enrolled in a **[school approved by the Department of Education or by the board] program approved by the board at a regionally accredited college or university or Pennsylvania private licensed school or its equivalent as determined by the board.**

(4) The practice by an individual while performing reflexology.

(5) The practice of an individual who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement, while engaged within the scope of practice of a profession with established standards and ethics.

(6) The practice of an individual who uses touch to affect the energy systems, acupoints, Qi meridians or channels of energy of the human body while engaged within the scope of practice of a profession with established standards and ethics. Such practices include acupressure, Asian bodywork therapy, polarity therapy bodywork, quigon, reiki, shiatsu and tui na.

Section 2. This act shall take effect in 60 days.

APPROVED—The 18th day of September, A.D. 2009.

EDWARD G. RENDELL