

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



15 JUL 28 P3:40

SENATE
S. No. 2874

RECEIVED BY: *[Signature]*

Introduced by Senator Miriam Defensor Santiago

AN ACT
REGULATING THE MASSAGE PRACTICE

EXPLANATORY NOTE

The Constitution, Article 11, Section 15, provides:

Section 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

Massage is a part of the Filipino culture, as well as in the majority of our Southeast Asian neighbors. Qualified massage practitioners and therapists invested in their vocation the knowledge of anatomy and physiology, with an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Regulating the practice of massage against unqualified practitioners and establishments is in the interest of public health, safety, and welfare.

This bill not only aims to standardize the qualifications of massage therapists, but will also curb prostitution that uses massage parlors as fronts of their illicit trade.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Thirteenth Congress, Third Regular Session and re-filed in the Fifteenth Congress, First Regular Session.



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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Short Title.* – This Act shall be known as the “Massage Practice
2 Act”.

3 SECTION 2. *Definitions.* – As used in this Act, the term:

- 4 A. “Apprentice” means a person approved by the Board to study massage
5 under the instruction of a licensed massage therapist;
- 6 B. “Board” means the Board of Massage Therapy;
- 7 C. “Board-approved massage school” means a facility which meets
8 minimum standards for training and curriculum as determined by rule
9 of the Board and which is licensed by the Technical Education and
10 Skills Development Authority;
- 11 D. “Colonic irrigation” means a method of hydrotherapy used to cleanse
12 the colon with the aid of a mechanical device and water;
- 13 E. “DOH” means the Department of Health;
- 14 F. “Establishment” means a site or premises, or portion thereof, wherein a
15 massage therapist practices massage;

1 G. "Licensure" means the procedure by which a person, hereinafter
2 referred to as a "practitioner," applies to the Board for approval to
3 practice massage or to operate an establishment;

4 H. "Massage" means the manipulation of the soft tissues of the human
5 body with the hand, foot, arm, or elbow, whether or not such
6 manipulation is aided by hydrotherapy, including colonic irrigation, or
7 thermal therapy; any electrical or mechanical device; or the application
8 to the human body of a chemical or herbal preparation;

9 I. "Massage therapist" means a person licensed as required by this Act,
10 who administers massage for compensation;

11 J. "PRC" means the Professional Regulation Commission; and

12 K. "Secretary" means the Secretary of the Department of Health;

13 SECTION 3. *Exemptions.* –

14 A. Athletic trainers employed by or on behalf of a professional athletic
15 team shall be exempt from the provisions of this Act;

16 B. Licensed Physical and Occupational Therapists shall be exempt from
17 the provisions of this Act;

18 C. An exemption granted is effective to the extent that an exempted
19 person's practice or profession overlaps with the practice of massage.

20 SECTION 4. *Board of Massage Therapy.* –

21 A. The Board of Massage Therapy is created within the DOH and shall be
22 regulated by the PRC. The Board shall consist of seven members, who
23 shall be appointed by the Secretary and whose function it shall be to
24 carry out the provisions of this Act;

- 1 B. Five members of the Board shall be licensed massage therapists and
2 shall have been engaged in the practice of massage for not less than
3 five consecutive years prior to the date of appointment to the Board.
4 The Secretary shall appoint each member for a term of four years. Two
5 members of the Board shall be laypersons. Each Board member shall
6 be a high school graduate or shall have received a graduate equivalency
7 diploma.
8 Each Board member shall be a Filipino citizen and a resident of the
9 country for not less than five years. The appointments will be subject to
10 confirmation by the Senate;
- 11 C. The Secretary may at any time fill vacancies on the Board for the
12 remainder of unexpired terms. Each member of the Board shall hold
13 over after the expiration of her or his term until her or his successor has
14 been duly appointed and qualified. No Board member shall serve more
15 than two terms, whether full or partial;
- 16 D. The Board shall, in the month of January, elect from its number a chair
17 and a vice chair;
- 18 E. The Board shall hold such meetings during the year as it may
19 determine to be necessary, one of which shall be the annual meeting.
20 The chair of the Board shall have the authority to call other meetings at
21 her or his discretion. A quorum of the Board shall consist of not less
22 than four members;
- 23 F. The Board has authority to adopt rules to implement the provisions of
24 this Act.

25 SECTION 5. *Accountability of Board Members.* – Each Board member shall be
26 held accountable to the Secretary for the proper performance of all duties and obligations

1 of such Board member's office. The Secretary shall cause to be investigated any
2 complaints or unfavorable reports received concerning the actions of the Board or its
3 individual members and shall take appropriate action thereon, which may include
4 removal of any Board member for malfeasance, misfeasance, neglect of duty,
5 commission of a felony, incompetence, or permanent inability to perform official duties.

6 SECTION 6. *Investigative Services.* – The DOH, in coordination with the PRC,
7 shall provide all investigative services required in carrying out the provisions of this Act.

8 SECTION 7. *Massage Therapists: Qualifications; Licensure; Endorsement.* –

9 A. Any person is qualified for licensure as a massage therapist under this
10 Act who:

- 11 1. Is at least 18 years of age or has received a high school diploma
12 or graduate equivalency diploma;
- 13 2. Has completed a course of study at a Board-approved massage
14 school or has completed an apprenticeship program that meets
15 standards adopted by the Board; and
- 16 3. Has received a passing grade on an examination administered by
17 the DOH;

18 B. The PRC in Coordination with the DOH shall provide for the
19 procedure, qualifications and documentary requirements for the
20 application of a massage therapy license;

21 C. Upon an applicant's passing the examination and paying the initial
22 licensure fee, the DOH shall issue to the applicant a license, valid until
23 the next scheduled renewal date, to practice massage;

24 D. The Board shall adopt rules:

- 25 1. Establishing a minimum training program for apprentices;

- 1 2. Providing for educational standards, examination, and
2 certification for the practice of colonic irrigation by massage
3 therapists;

4 SECTION 8. *License Renewal.* – The Board shall prescribe by rule the method for
5 renewal of biennial licensure which shall include continuing education requirements not
6 to exceed 25 classroom hours per biennium. The Board shall by rule establish criteria for
7 the approval of continuing education programs or courses. The programs or courses
8 approved by the Board may include correspondence courses that meet the criteria for
9 continuing education courses held in a classroom setting.

10 SECTION 9. *Examinations.* –

- 11 A. The Board shall specify by rule the general areas of competency to be
12 covered by examinations for licensure. These rules shall include the
13 relative weight assigned in grading each area, the grading criteria to be
14 used by the examiner, and the score necessary to achieve a passing
15 grade.

16 The Board shall ensure that examinations adequately measure an
17 applicant's competency. Professional testing services may be utilized to
18 formulate the examinations.

- 19 B. The Board shall ensure that examinations comply with applicable laws
20 and jurisprudence on labor and employment.

- 21 C. The DOH shall, in accordance with rules established by the Board,
22 examine persons who file applications for licensure under this Act in
23 all matters pertaining to the practice of massage. A written examination
24 shall be offered at least once yearly and at such other times as the DOH
25 shall deem necessary.

1 D. The Board shall adopt rules providing for re-examination of applicants
2 who have failed the examination.

3 E. All licensing examinations shall be conducted in such manner that the
4 applicant shall be known to the DOH by number until her or his
5 examination is completed and the proper grade determined. An
6 accurate record of each examination shall be made; and that record,
7 together with all examination papers, shall be filed with the Secretary
8 and shall be kept for reference and inspection for a period of not less
9 than 2 years immediately following the examination.

10 SECTION 10. *Massage Establishments; Requisites; Licensure; Inspection.* —

11 A. No massage establishment shall be allowed to operate without a
12 license granted by the DOH in accordance with rules adopted by the
13 Board;

14 B. The Board shall adopt rules governing the operation of establishments
15 and their facilities, personnel, safety and sanitary requirements,
16 financial responsibility, insurance coverage, and the license application
17 and granting process;

18 C. Any person, firm, or corporation desiring to operate a massage
19 establishment shall submit to the DOH an application, upon forms
20 provided by the DOH, accompanied by any information requested by
21 the DOH and an application fee;

22 D. Upon receiving the application, the DOH may cause an investigation
23 to be made of the proposed massage establishment;

24 E. If, based upon the application and any necessary investigation, the
25 DOH determines that the proposed establishment would fail to meet
26 the standards adopted by the Board under Paragraph B of this Section,

1 the DOH shall deny the application for license. Such denial shall be in
2 writing and shall list the reasons for denial. Upon correction of any
3 deficiencies, an applicant previously denied permission to operate a
4 massage establishment may reapply for licensure;

5 F. If, based upon the application and any necessary investigation, the
6 DOH determines that the proposed massage establishment may
7 reasonably be expected to meet the standards adopted by the DOH
8 under Paragraph B of this Section, the DOH shall grant the license
9 under such restrictions as it shall deem proper as soon as the original
10 licensing fee is paid;

11 G. Once issued, no license for operation of a massage establishment may
12 be transferred from one owner to another.

13 H. A license may be transferred from one location to another only after
14 inspection and approval by the Board and receipt of an application and
15 inspection fee set by rule of the Board, not to exceed ₱1,500.

16 I. A license may be transferred from one business name to another after
17 approval by the Board and receipt of an application fee set by rule of
18 the Board, not to exceed ₱500.

19 J. Renewal of license registration for massage establishments shall be
20 accomplished pursuant to rules adopted by the Board. The Board is
21 further authorized to adopt rules governing delinquent renewal of
22 licenses and may impose penalty fees for delinquent renewal.

23 K. The Board is authorized to adopt rules governing the periodic
24 inspection of massage establishments licensed under this Act.

25 SECTION 11. *Fees; Disposition.* –

26 A. The Board shall set fees according to the following schedule:

- 1 1. Massage therapist application and examination fee: not to exceed
- 2 ₱2,500;
- 3 2. Massage therapist initial licensure fee: not to exceed ₱1,500;
- 4 3. Establishment application fee: not to exceed ₱2,000;
- 5 4. Establishment licensure fee: not to exceed ₱1,500;
- 6 5. Biennial establishment renewal fee: not to exceed ₱1,500;
- 7 6. Biennial massage therapist licensure renewal fee: not to exceed
- 8 ₱2,000;
- 9 7. Massage therapist re-examination fee: not to exceed ₱2,500;
- 10 8. Fee for apprentice: not to exceed ₱1,000;
- 11 9. Colonics examination fee: not to exceed ₱1,000;
- 12 10. Colonics re-examination fee: not to exceed ₱1,000;
- 13 11. Application and reactivation for inactive status of a massage
- 14 therapist license fee: not to exceed ₱2,500;
- 15 12. Renewal fee for inactive status: not to exceed ₱2,500;
- 16 B. The DOH shall impose a late fee not to exceed ₱1,500 on a delinquent
- 17 renewal of a massage establishment license;
- 18 C. The Board may establish by rule an application fee not to exceed
- 19 ₱1,000 for anyone seeking approval to provide continuing education
- 20 courses and may provide by rule for a fee not to exceed ₱50 for
- 21 renewal of providership;
- 22 D. The DOH is authorized to charge the cost of any original license or
- 23 permit, as set forth in this Act, for the issuance of any duplicate
- 24 licenses or permits requested by any massage therapist or massage
- 25 establishment;

1 E. All moneys collected by the DOH from fees authorized by this Act
2 shall be paid into the National Treasury.

3 SECTION 12. *Grounds for disciplinary action by the Board.* –

4 A. The following acts constitute grounds for denial of a license or
5 disciplinary action:

- 6 1. Attempting to procure a license to practice massage by bribery or
7 fraudulent misrepresentation;
- 8 2. Being convicted or found guilty, regardless of adjudication, of a
9 crime in any jurisdiction which directly relates to the practice of
10 massage or to the ability to practice massage;
- 11 3. False, deceptive, or misleading advertising;
- 12 4. Aiding, assisting, procuring, or advising any unlicensed person to
13 practice massage contrary to the provisions of this Act or to a
14 rule of the DOH or the Board;
- 15 5. Making deceptive, untrue, or fraudulent representations in the
16 practice of massage;
- 17 6. Being unable to practice massage with reasonable skill and safety
18 by reason of illness or use of alcohol, drugs, narcotics, chemicals,
19 or any other type of material or as a result of any mental or
20 physical condition. In enforcing this paragraph, the DOH shall
21 have, upon probable cause, authority to compel a massage
22 therapist to submit to a mental or physical examination by
23 physicians designated by the DOH. Failure of a massage
24 therapist to submit to such examination when so directed, unless
25 the failure was due to circumstances beyond her or his control,
26 shall constitute an admission of the allegations against her or

1 him, consequent upon which a default and final order may be
2 entered without the taking of testimony or presentation of
3 evidence. A massage therapist affected under this paragraph shall
4 at reasonable intervals be afforded an opportunity to demonstrate
5 that she or he can resume the competent practice of massage with
6 reasonable skill and safety to clients;

7 7. Gross or repeated malpractice or the failure to practice massage
8 with that level of care, skill, and treatment which is recognized
9 by a reasonably prudent massage therapist as being acceptable
10 under similar conditions and circumstances;

11 8. Practicing or offering to practice beyond the scope permitted by
12 law or accepting and performing professional responsibilities
13 which the licensee knows or has reason to know that she or he is
14 not competent to perform;

15 9. Delegating professional responsibilities to a person when the
16 licensee delegating such responsibilities knows or has reason to
17 know that such person is not qualified by training, experience, or
18 licensure to perform;

19 10. Violating a lawful order of the Board or DOH previously entered
20 in a disciplinary hearing, or failing to comply with a lawfully
21 issued subpoena of the DOH;

22 11. Refusing to permit the DOH to inspect the business premises of
23 the licensee during regular business hours.

24 12. Failing to keep the equipment and premises of the massage
25 establishment in a clean and sanitary condition;

1 13. Practicing massage at a site, location, or place which is not duly
2 licensed as a massage establishment, except that a massage
3 therapist, as provided by rules adopted by the Board, may
4 provide massage services, excluding colonic irrigation, at the
5 residence of a client, at the office of the client, at a sports event,
6 at a convention, or at a trade show;

7 B. The Board may enter an order denying licensure or imposing any of the
8 penalties in this Section against any applicant for licensure or licensee
9 who is found guilty of violating any provision of Paragraph A of this
10 Section;

11 C. The Board shall have the power to revoke or suspend the license of a
12 massage establishment licensed under this Act, or to deny subsequent
13 licensure of such an establishment, in either of the following cases:

14 1. Upon proof that a license has been obtained by fraud or
15 misrepresentation;

16 2. Upon proof that the holder of a license is guilty of fraud or deceit
17 or of gross negligence, incompetence, or misconduct in the
18 operation of the establishment so licensed.

19 SECTION 13. *Advertisement.* – Each massage therapist or massage establishment
20 licensed under the provisions of this Act shall include the number of the license in any
21 advertisement of massage services appearing in any newspaper, airwave transmission,
22 telephone directory, or other advertising medium. Pending licensure of a new massage
23 establishment pursuant to the provisions of Section 10(6), the license number of a
24 licensed massage therapist who is an owner or principal officer of the establishment may
25 be used in lieu of the license number for the establishment.

1 SECTION 14. *Penalties.* –

2 A. It is unlawful for any person to:

- 3 1. Hold himself or herself out as a massage therapist or to practice
4 massage unless duly licensed under this Act or unless otherwise
5 specifically exempted from licensure under this Act;
- 6 2. Operate any massage establishment unless it has been duly
7 licensed as provided herein, except that nothing herein shall be
8 construed to prevent the teaching of massage at a Board-
9 approved massage school;
- 10 3. Permit an employed person to practice massage unless duly
11 licensed as provided herein;
- 12 4. Present as his or her own the license of another;
- 13 5. Allow the use of his or her license by an unlicensed person;
- 14 6. Give false or forged evidence to the DOH in obtaining any
15 license provided for herein;
- 16 7. Falsely impersonate any other license holder of like or different
17 name;
- 18 8. Use or attempt to use a license that has been revoked;
- 19 9. Otherwise violate any of the provisions of this Act;

20 B. Any person violating the provisions of this section is guilty of a
21 misdemeanor of the first degree, punishable as provided in the
22 pertinent provisions of the Penal Code.

23 SECTION 15. *Sexual misconduct in the practice of massage therapy.* – The
24 massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in
25 the practice of massage therapy means violation of the massage therapist-patient
26 relationship through which the massage therapist uses that relationship to induce or

1 attempt to induce the patient to engage, or to engage or attempt to engage the patient, in
2 sexual activity outside the scope of practice or the scope of generally accepted
3 examination or treatment of the patient. Sexual misconduct in the practice of massage
4 therapy is prohibited.

5 SECTION 16. *Civil proceedings.* – As cumulative to any other remedy or criminal
6 prosecution, the DOH may file a proceeding in the name of the People of the Philippines
7 seeking issuance of a restraining order, injunction, or writ of mandamus against any
8 person who is or has been violating any of the provisions of this Act or the lawful rules or
9 orders of the DOH.

10 SECTION 17. *Power of province, city, or municipality to regulate massage.* – A
11 province, city or municipality, within its jurisdiction, may regulate persons and
12 establishments licensed under this Act. Any province, city or municipality shall have the
13 authority to enact any regulation of persons or establishments not licensed pursuant to
14 this Act in accordance with applicable laws and jurisprudence.

15 SECTION 18. SECTION 18. *Appropriations.* – The amount necessary to carry out
16 the provisions of this Act shall be included in the budget of concerned government
17 agencies in the General Appropriations Act of the year following its enactment into law
18 and thereafter.

19 SECTION 19. *Separability Clause.* – If any provision of this Act is held invalid or
20 unconstitutional, the same shall not affect the validity and effectivity of the other
21 provisions hereof.

1 SECTION 20. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
2 portions thereof, which are inconsistent with the provisions of this Act, are hereby
3 repealed, amended or modified accordingly.

4 SECTION 21. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
5 after its publication in the *Official Gazette* or in two (2) newspapers of general
6 circulation.

Approved,

/aml 24July2015