

# HOUSE BILL No. 1302

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-21.8.

**Synopsis:** Massage therapists. Requires massage therapists to be licensed. (Currently they are certified.) Provides that all individuals practicing massage therapy must be licensed. (Current law requires certification to use the name "certified massage therapist".) Prohibits local units of government from establishing or maintaining licensing requirements for massage therapy. Makes conforming changes.

**Effective:** July 1, 2011.

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January 13, 2011, read first time and referred to Committee on Public Health.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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# HOUSE BILL No. 1302



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 25-21.8-2-2, AS ADDED BY P.L.200-2007,
- 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]: Sec. 2. (a) The board consists of five (5) members
- 4 appointed by the governor as follows:
- 5 (1) Three (3) massage therapists, each of whom:
- 6 (A) is ~~certified~~ **licensed** under this article; and
- 7 (B) has been actively practicing massage therapy for at least
- 8 three (3) of the five (5) years immediately preceding the
- 9 individual's appointment.
- 10 (2) Two (2) members of the general public. A board member
- 11 appointed under this subdivision must not:
- 12 (A) be ~~certified~~ **licensed** under this article;
- 13 (B) be the spouse of an individual who is ~~certified~~ **licensed** or
- 14 intends to be ~~certified~~ **licensed** under this article; or
- 15 (C) have a direct or an indirect financial interest in the
- 16 profession regulated under this article.
- 17 (b) A massage therapist member of the board is not required to be



1 a member of a professional massage therapy association. However:

2 (1) not more than one (1) massage therapist member appointed to

3 the board may belong to the same professional massage therapy

4 association; and

5 (2) one (1) massage therapist member must not be a member of

6 a professional massage therapy association.

7 SECTION 2. IC 25-21.8-2-9, AS ADDED BY P.L.200-2007,

8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

9 JULY 1, 2011]: Sec. 9. The board shall adopt rules under IC 4-22-2

10 regarding standards:

11 (1) for the competent practice of massage therapy; and

12 (2) **necessary to administer and enforce this article.**

13 SECTION 3. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007,

14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

15 JULY 1, 2011]: Sec. 1. (a) The board shall do the following:

16 (1) Administer and enforce this article.

17 (2) Adopt rules under IC 4-22-2 for the administration and

18 enforcement of this article.

19 (3) Judge the qualifications of applicants for ~~certification~~

20 **licensure** under this article.

21 (4) Issue, deny, or renew ~~certifications~~ **licenses** under this article.

22 (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline

23 individuals who are ~~certified~~ **licensed** under this article for

24 violations of this article.

25 (6) Establish reasonable fees for examination, ~~certification license~~

26 applications, renewal of ~~certifications~~, **licenses**, and other

27 services.

28 (7) Maintain a record of all proceedings.

29 (8) Maintain records of ~~certified~~ **licensed** massage therapists.

30 (9) Adopt at least two (2) examinations that an applicant may use

31 for ~~certification~~ **licensure** under this article.

32 (b) The board may do the following:

33 (1) Conduct administrative hearings.

34 (2) Administer oaths in matters relating to the discharge of the

35 official duties of the board.

36 SECTION 4. IC 25-21.8-4-1, AS ADDED BY P.L.200-2007,

37 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

38 JULY 1, 2011]: Sec. 1. An application for a massage therapist

39 ~~certification licensure~~ must be:

40 (1) made to the board in the form and manner provided by the

41 board; and

42 (2) accompanied by an application fee in the amount set by the

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SECTION 5. IC 25-21.8-4-2, AS AMENDED BY P.L.177-2009, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. An individual who applies for ~~certification~~ **licensure** as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

- (A) is at least eighteen (18) years of age;
- (B) has a high school diploma or the equivalent of a high school diploma;
- (C) has successfully completed a massage therapy school or program that:
  - (i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on massage therapy;
  - (ii) is in good standing with a state, regional, or national agency of government charged with regulating massage therapy schools or programs; and
  - (iii) is accredited by the Indiana commission on proprietary education established by IC 21-17-2-1 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and
- (D) has taken and passed ~~a certification~~ **an** examination approved by the board.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. The board shall deny an application for ~~certification~~ **licensure** if the applicant:

- (A) has been convicted of:
  - (i) prostitution;
  - (ii) rape; or
  - (iii) sexual misconduct; or
- (B) is a registered sex offender.

(3) Provide proof that the applicant has professional liability insurance in force that lists the state as an additional insured.

(4) Verify the information submitted on the application form.

(5) Pay fees established by the board.

SECTION 6. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a) It is unlawful for** an individual who is not ~~certified licensed~~ **licensed** under this article ~~may not: to:~~

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- (1) engage in the practice of massage therapy;**
- ~~(1)~~ **(2) profess to be a certified licensed** massage therapist; or
- ~~(2)~~ **(3) use:**
  - (A) the title "~~Certified Massage Therapist~~" **"licensed massage therapist"**, or "massage therapist";
  - (B) the abbreviation "~~CMT~~" **"LMT"**, or "MT", or to imply the person is a ~~certified licensed~~ massage therapist.

**(b) This article may not be construed to limit the use of touch, words, and directed movement performed by a person holding a valid license or certificate under this title when the person is acting within the scope of the person's license or certificate.**

SECTION 7. IC 25-21.8-4-4, AS ADDED BY P.L.177-2009, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. A massage therapist who is ~~certified licensed~~ under this article shall provide proof of ~~certification licensure~~ when practicing massage therapy.

SECTION 8. IC 25-21.8-4-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5. (a) If an individual was certified as a massage therapist on June 30, 2011, under this article:**

- (1) the individual is considered to be licensed as a massage therapist on July 1, 2011; and**
- (2) the board shall issue a license to the individual under this article.**

**(b) Notwithstanding subsection (a), the board and the Indiana professional licensing agency are not required to issue a:**

- (1) wall license to a licensed individual described in subsection (a); and**
- (2) new pocket license to a licensed individual described in subsection (a);**

**until the license renewal period beginning December 1, 2012.**

**(c) This section expires January 1, 2013.**

SECTION 9. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The board may grant ~~certification licensure~~ by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state having credentialing standards that are at least as strict as the credentialing standards specified under this article;
- (2) is in good standing with the standards of the other state or country;
- (3) pays an application fee established by the board; and

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- 1 (4) provides a history of the individual's criminal convictions, if  
 2 any, including any criminal convictions relating to the practice of  
 3 the profession.
- 4 (b) The board shall deny an application for ~~certification~~ **licensure**  
 5 if the applicant:
- 6 (1) has been convicted of:
- 7 (A) prostitution;
- 8 (B) rape; or
- 9 (C) sexual misconduct; or
- 10 (2) is a registered sex offender.
- 11 (c) An applicant for a ~~certification~~ **licensure** by endorsement shall  
 12 cause each state that previously credentialed the applicant to provide  
 13 the board with the applicant's current status in the state.
- 14 **(d) The board may grant a license to a massage therapist who**  
 15 **is licensed or certified and in good standing in another state if the**  
 16 **standards for massage therapy education are substantially**  
 17 **equivalent to the standards in Indiana.**
- 18 SECTION 10. IC 25-21.8-6-1, AS ADDED BY P.L.200-2007,  
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2011]: Sec. 1. A ~~certification~~ **license** issued by the board is  
 21 valid for four (4) years. A ~~certification~~ **license** expires at midnight on  
 22 the date established by the licensing agency under IC 25-1-6-4 and  
 23 every four (4) years thereafter, unless renewed before that date.
- 24 SECTION 11. IC 25-21.8-6-2, AS ADDED BY P.L.200-2007,  
 25 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2011]: Sec. 2. An individual who applies to renew  
 27 ~~certification~~ **licensure** as a massage therapist must:
- 28 (1) apply for renewal in the manner required by the board; and
- 29 (2) pay a renewal fee established by the board.
- 30 SECTION 12. IC 25-21.8-6-4 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2011]: **Sec. 4. The board shall establish**  
 33 **continuing education requirements not to exceed forty-eight (48)**  
 34 **hours for a renewal cycle as a condition of license renewal.**
- 35 SECTION 13. IC 25-21.8-7-3, AS ADDED BY P.L.200-2007,  
 36 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2011]: Sec. 3. If an individual ~~certified~~ **licensed** under this  
 38 article is convicted of a crime, the individual is responsible for  
 39 notifying the board not later than thirty (30) days after the conviction.
- 40 SECTION 14. IC 25-21.8-8 IS ADDED TO THE INDIANA CODE  
 41 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2011]:

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1           **Chapter 8. Local Preemption**  
2           **Sec. 1. Beginning January 1, 2012, a local unit of government**  
3           **may not establish or maintain professional licensing requirements**  
4           **for massage therapists.**

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