



February 14, 2011

SENATE BILL No. 500

DIGEST OF SB 500 (Updated February 13, 2011 1:18 pm - DI 110)

Citations Affected: IC 25-21.8.

Synopsis: Massage therapists. Provides that an individual must be licensed by the state board of massage therapy to engage in the practice of massage therapy. (Under current law, massage therapists are certified by the board but certification is not required for the practice of massage therapy.) Prohibits local units of government from establishing or maintaining licensing requirements for massage therapy. Provides that the massage therapy licensing requirements do not apply to a health care provider who is acting within the scope of the health care provider's license, registration, or certificate. Makes conforming changes.

Effective: July 1, 2011.

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January 13, 2011, read first time and referred to Committee on Public Policy.
February 14, 2011, amended, reported favorably — Do Pass.

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SB 500—LS 7228/DI 14+



February 14, 2011

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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SENATE BILL No. 500

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

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a member of a professional massage therapy association. However:

- (1) not more than one (1) massage therapist member appointed to the board may belong to the same professional massage therapy association; and
- (2) one (1) massage therapist member must not be a member of a professional massage therapy association.

SECTION 2. IC 25-21.8-2-9, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. The board shall adopt rules under IC 4-22-2 that:

- (1) ~~regarding establish~~ standards for the competent practice of massage therapy; **and**
- (2) **are necessary for the administration and enforcement of this article.**

SECTION 3. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The board shall do the following:

- (1) Administer and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for ~~certification~~ **licensure** under this article.
- (4) Issue, deny, or renew ~~certifications~~ **licenses** under this article.
- (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline individuals who are ~~certified~~ **licensed** under this article for violations of this article.
- (6) Establish reasonable fees for examination, ~~certification~~ applications, renewal of ~~certifications,~~ **licenses**, and other services.
- (7) Maintain a record of all proceedings.
- (8) Maintain records of ~~certified~~ **licensed** massage therapists.
- (9) Adopt at least two (2) examinations that an applicant may use for ~~certification~~ **licensure** under this article.

(b) The board may do the following:

- (1) Conduct administrative hearings.
- (2) Administer oaths in matters relating to the discharge of the official duties of the board.

SECTION 4. IC 25-21.8-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.5. This article does not apply to a health care provider who is acting within the scope of the health care provider's license, registration, or certificate.**

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1 SECTION 5. IC 25-21.8-4-1, AS ADDED BY P.L.200-2007,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1. An application for a massage therapist
4 ~~certification license~~ must be:

- 5 (1) made to the board in the form and manner provided by the
- 6 board; and
- 7 (2) accompanied by an application fee in the amount set by the
- 8 board.

9 SECTION 6. IC 25-21.8-4-2, AS AMENDED BY P.L.177-2009,
10 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2011]: Sec. 2. An individual who applies for ~~certification~~
12 **licensure** as a massage therapist must do the following:

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

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

31 (D) has taken and passed ~~a certification~~ **an** examination
32 approved by the board.

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

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

42 (3) Provide proof that the applicant has professional liability

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1 insurance in force that lists the state as an additional insured.
 2 (4) Verify the information submitted on the application form.
 3 (5) Pay fees established by the board.
 4 SECTION 7. IC 25-21.8-4-3, AS ADDED BY P.L.200-2007,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2011]: Sec. 3. ~~An~~ **It is unlawful for an individual who is not**
 7 **certified licensed** under this article ~~may not~~ **to:**
 8 **(1) engage in the practice of message therapy;**
 9 ~~(1)~~ **(2) profess to be a certified licensed** massage therapist; or
 10 ~~(2)~~ **(3) use:**
 11 (A) the title "~~Certified Massage Therapist~~" "**Licensed**
 12 **Massage Therapist**", or "Massage Therapist", "**Licensed**
 13 **Massage Practitioner**", "**Massage Practitioner**",
 14 "**Masseur**", or "**Myotherapist**"; or
 15 (B) the abbreviation "~~CMT~~" "**LMT**", or "MT", or "**LMP**"; or
 16 **(C) other words, initials, letters, abbreviations, or insignia**
 17 **indicating or implying that to imply the person individual is**
 18 **a certified licensed** massage therapist.
 19 SECTION 8. IC 25-21.8-4-4, AS ADDED BY P.L.177-2009,
 20 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2011]: Sec. 4. A massage therapist who is ~~certified licensed~~
 22 under this article shall provide proof of ~~certification~~ **licensure** when
 23 practicing massage therapy.
 24 SECTION 9. IC 25-21.8-4-5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2011]: Sec. 5. **(a) If an individual is certified as a massage**
 27 **therapist on June 30, 2011, under this article:**
 28 **(1) the individual is considered to be licensed as a massage**
 29 **therapist on July 1, 2011; and**
 30 **(2) the state board of massage therapy established by**
 31 **IC 25-21.8-2-1 shall issue a license to the individual under this**
 32 **article.**
 33 **(b) Notwithstanding subsection (a), the state board of massage**
 34 **therapy and the Indiana professional licensing agency are not**
 35 **required to issue:**
 36 **(1) a wall license to an individual described in subsection (a);**
 37 **or**
 38 **(2) a new pocket license to an individual described in**
 39 **subsection (a);**
 40 **until the license renewal period beginning December 1, 2012.**
 41 **(c) This section expires January 1, 2013.**
 42 SECTION 10. IC 25-21.8-5-1, AS ADDED BY P.L.200-2007,

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1 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2011]: Sec. 1. (a) The board may grant ~~certification licensure~~
3 by endorsement to an individual who:

- 4 (1) is licensed, certified, or registered in another state having
5 credentialing standards that are at least as strict as the
6 credentialing standards specified under this article;
7 (2) is in good standing with the standards of the other state or
8 country;
9 (3) pays an application fee established by the board; and
10 (4) provides a history of the individual's criminal convictions, if
11 any, including any criminal convictions relating to the practice of
12 the profession.

13 (b) The board shall deny an application for ~~certification licensure~~
14 if the applicant:

- 15 (1) has been convicted of:
16 (A) prostitution;
17 (B) rape; or
18 (C) sexual misconduct; or
19 (2) is a registered sex offender.

20 (c) An applicant for a ~~certification licensure~~ by endorsement shall
21 cause each state that previously credentialed the applicant to provide
22 the board with the applicant's current status in the state.

23 **(d) The board may grant a license to a massage therapist who**
24 **is licensed or certified and in good standing in another state if the**
25 **standards for massage therapy education in that other state are**
26 **substantially equivalent to the standards established under this**
27 **article.**

28 SECTION 11. IC 25-21.8-6-1, AS ADDED BY P.L.200-2007,
29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2011]: Sec. 1. A ~~certification license~~ issued by the board is
31 valid for four (4) years. A ~~certification license~~ expires at midnight on
32 the date established by the licensing agency under IC 25-1-6-4 and
33 every four (4) years thereafter, unless renewed before that date.

34 SECTION 12. IC 25-21.8-6-2, AS ADDED BY P.L.200-2007,
35 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2011]: Sec. 2. An individual who applies to renew
37 ~~certification licensure~~ as a massage therapist must:

- 38 (1) apply for renewal in the manner required by the board; and
39 (2) pay a renewal fee established by the board.

40 SECTION 13. IC 25-21.8-7-3, AS ADDED BY P.L.200-2007,
41 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2011]: Sec. 3. If an individual ~~certified licensed~~ under this

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1 article is convicted of a crime, the individual is responsible for
2 notifying the board not later than thirty (30) days after the conviction.

3 SECTION 14. IC 25-21.8-8 IS ADDED TO THE INDIANA CODE
4 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]:

6 **Chapter 8. Local Preemption**

7 **Sec. 1. Beginning January 1, 2012, a local unit of government**
8 **may not establish or maintain professional licensing requirements**
9 **for massage therapists.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 500, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 3. IC 25-21.8-3-1, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The board shall do the following:

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- (1) Conduct administrative hearings.
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- (1) made to the board in the form and manner provided by the board; and
- (2) accompanied by an application fee in the amount set by the board."

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Page 3, line 12, delete "(a)".

Page 3, delete lines 25 through 28.

Page 5, delete lines 8 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 500 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 7, Nays 1.

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