LEGISLATURE OF THE STATE OF IDAHO

___________ Legislature
___________ Regular Session –
2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. __

BY BUSINESS COMMITTEE

AN ACT

RELATING TO THE LICENSURE OF MASSAGE THERAPISTS; AMENDING SECTION 54-4002, IDAHO CODE, TO DEFINE MASSAGE THERAPY ESTABLISHMENT; AMENDING SECTION 54-4003, IDAHO CODE, TO EXEMPT CERTAIN MASSAGE THERAPY ESTABLISHMENTS; AMENDING SECTION 54-4014, IDAHO CODE, TO ADD OPERATION AND MAINTENANCE OF AN UNLICENSED ESTABLISHMENT AS A PENALTY; AMENDING CHAPTER 40, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4016, IDAHO CODE, TO PROVIDE FOR THE LICENSING OF A MASSAGE THERAPY ESTABLISHMENT; AMENDING CHAPTER 40, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4017, IDAHO CODE, TO PROVIDE FOR EXCEPTIONS REGARDING ESTABLISHMENTS; AND AMENDING CHAPTER 40, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4018, IDAHO CODE, TO PROVIDE FOR ESTABLISHMENT INSPECTION STANDARDS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-4002, Idaho Code, be, and the same is hereby amended to read as follows:

54-4002.DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Advertise" means, but is not limited to, the issuing or causing to be distributed of any card, sign, direct mail piece or other device or causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine or directory, or announcement on radio or announcement or display on television, computer network or electronic or telephonic medium.

(2) "Board" means the Idaho state board of massage therapy created pursuant to section 54-4006, Idaho Code.

(3) "Compensation" means the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value, except "compensation" shall not include a student tuition credit program where such program has been established by a massage therapy establishment.
(4) “Massage Therapy Establishment” means a place licensed under this chapter, other than
a school, where the practice of massage therapy occurs.
(54) "Massage school" means a massage therapy educational program that is registered by
the state board of education in accordance with chapter 24, title 33, Idaho Code, or
comparable authority in another state.
(65) "Massage therapist" means a person who is licensed under this chapter and who
engages in the practice of massage therapy.
(76) "Massage therapy" means the care and services provided by a massage therapist.
(87) "Practice of massage therapy" means the application of a system of structured touch,
pressure, movement and holding of the soft tissues of the human body. The application may
include:
(a) Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching
within the normal anatomical range of movement;
(b) Complementary methods, including the external application of water, heat, cold,
lubricants and other topical preparations; or
(c) The use of mechanical devices that mimic or enhance actions that may be done by the
hands.

SECTION 2. That Section 54-4003, Idaho Code, be, and the same is hereby amended to
read as follows:
54-4003.EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict any person
licensed or regulated by the state of Idaho from engaging in the profession or practice for which
they are licensed or regulated.
(2) Nothing in this chapter shall prohibit, prevent or restrict:
(a) The practice of massage therapy by a person employed by the government of the United
States while the person is engaged in the performance of duties prescribed by the laws and
regulations of the United States.
(b) The practice of massage therapy by persons licensed, registered or certified in another
state, a territory, the District of Columbia or a foreign country when incidentally called into
this state to teach a course related to massage therapy or to consult with a person licensed
under this chapter.
(c) The practice of massage therapy by persons licensed, registered or certified and in good
standing in another state, a territory, the District of Columbia or a foreign country when
practicing on clients participating in organized athletic events or affiliated with or employed
by established athletic teams, athletic organizations or performing arts companies
temporarily practicing, competing or performing in this state for no more than sixty (60)
days in a calendar year.
(d) The practice of students enrolled in a board-approved course of instruction while
completing a clinical requirement or supervised massage therapy fieldwork experience for
graduation performed under the supervision of a person licensed under this chapter, provided
the student does not hold himself or herself out as a licensed massage therapist and does not
receive compensation for services performed.
(e) The practice of any person in this state who uses touch, words and directed movement
to deepen awareness of existing patterns of movement in the body as well as to suggest new
possibilities of movement while engaged within the scope of practice of a profession,
provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to, the Feldenkrais method® of somatic education, the Trager approach® to movement education, body-mind centering®, Ortho-Bionomy® and craniosacral therapy.

(f) The practice of persons who restrict their practice to manipulation of the soft tissues of the human body to the hands, feet or ears and do not hold themselves out to be massage therapists or to do massage or massage therapy.

(g) The practice of any person in this state who uses touch to affect the energy systems, acupoints or qi meridians, or channels of energy of the human body while engaged within the scope of practice of a profession, provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to, polarity, polarity therapy, polarity bodywork therapy, Asian bodywork therapy, acupressure, jin shin do®, qi gong, reiki and shiatsu.

(h) The practice of persons engaged in the profession of structural integration, restoring postural balance and functional ease by integrating the body in gravity based on a system of fascial manipulation, awareness, and education developed by Dr. Ida P. Rolf, provided their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to: Rolfing® structural integration, the guild for structural integration, Hellerwork®.

(3) Nothing in this chapter shall apply to a massage therapy establishment which:

(a) Is owned or operated by a person or persons who hold a license, permit, certificate, or other credential issued by this state under another chapter and offers or performs massage therapy under the scope of that credential;
(b) Is owned by the federal government, the state, or a political subdivision of the state;
(c) Is the place of business of a health care provider licensed or certified under Title 54, Idaho Code, who employs or contracts with a licensed massage therapist to provide massage therapy as part of the person's practice; or
(d) Performs massage therapy for not more than seventy-two (72) hours in any six-month period as part of a public or charity event, the primary purpose of which is not to provide massage therapy.

SECTION 3. That Section 54-4014, Idaho Code, be, and the same is hereby amended to read as follows:

54-4014. ENFORCEMENT -- PENALTIES. A person who violates any provision of this chapter, including operating or maintaining a massage therapy establishment without a license herein provided, shall, upon conviction, be guilty of a misdemeanor. The board may seek an injunction against any person who practices massage therapy or maintains a massage therapy establishment in violation of the provisions of this chapter.

SECTION 4. That Chapter 40, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-4016, Idaho Code, and to read as follows:

54-4016. MASSAGE THERAPY ESTABLISHMENTS. (1) It shall be unlawful for any person or
legal entity to operate a massage therapy establishment unless the establishment has been licensed for such purpose provided in this chapter; (2) An establishment license must be publicly displayed at all times during the term of licensure in the establishment for which it is issued.

SECTION 5. That Chapter 40, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-4017, Idaho Code, and to read as follows:

54-4017. PROHIBITIONS REGARDING ESTABLISHMENTS -- EXCEPTIONS. (1) It shall be unlawful:
   (a) To practice massage therapy in a place or establishment not licensed for such practice, except as specifically authorized by this chapter; and
   (b) For any establishment license holder to allow the practice of massage therapy to be performed by a person who is not licensed under this chapter;

   (2) The provisions of subsection (1)(a) of this section shall not apply to licensees under this chapter who are performing licensed services for persons unable by reason of ill health or medical confinement to go to a licensed establishment.

SECTION 6. That Chapter 40, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-4018, Idaho Code, and to read as follows:

54-4018. ESTABLISHMENTS -- INSPECTION. Inspections for the purpose of enforcing the provisions of this chapter shall be made in accordance with a form approved by the board. The officers of the board or its agents shall have authority to enter and inspect at any time during business hours any massage establishment.