

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 998

Short Title: Bodywork Therapies Practice.

(Public)

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Sponsors: Senators Hoyle, Ballantine, Sherron, and Conder.

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Referred to: Children and Human Resources; Assessment Report Required (G.S. 120-149)

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May 4, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT REGULATING THE PRACTICE OF BODYWORK THERAPIES.

3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 90 of the General Statutes is amended by adding a new  
5 Article to read:

6 **"ARTICLE 31.**

7 **"BODYWORK THERAPIES PRACTICE.**

8 **"§ 90-470. Short title.**

9 This Article shall be known as the North Carolina Bodywork Therapies Practice Act.

10 **"§ 90-471. Declaration of purpose.**

11 The General Assembly recognizes that the improper practice of bodywork is  
12 potentially harmful to the public. Mandatory licensure of those engaged in the practice of  
13 bodywork is necessary to ensure minimum standards of competency and to protect the  
14 health, safety, and welfare of the public.

15 **"§ 90-472. Definitions.**

16 In this Article, unless the context otherwise requires, the following definitions shall  
17 apply:

18 (1) 'Board' means the North Carolina Board of Bodywork Therapies.

19 (2) 'Bodywork therapist' means a person licensed under this Article.

- 1           (3) 'Bodywork therapies' means systems of activities applied to the soft  
2 tissues of the body for therapeutic, educational, or relaxation purposes.  
3 The application may include:  
4           a. Pressure, friction, stroking, rocking, tapping, percussion,  
5 kneading, and passive or active stretching of the tissues within  
6 the normal physiologic range of movement;  
7           b. Complementary methods including the external application of  
8 water, heat, cold, lubricants, or other topical preparations, and  
9           c. Mechanical devices that mimic or enhance the actions possible  
10 by the hands.
- 11           (4) 'Practice of bodywork therapies' means the application of bodywork  
12 therapies to any person for a fee or other consideration. 'Practice of  
13 bodywork therapies' does not include the diagnosis of illness or disease,  
14 medical procedures, chiropractic adjustment, chiropractic manipulation  
15 or mobilization, electrical stimulation, ultrasound, prescription of  
16 medicines, or the use of modalities for which a license to practice  
17 medicine, chiropractic, physical therapy, occupational therapy,  
18 acupuncture, or podiatry is required by State law.

19 **"§ 90-473. License required.**

20           (a) A person shall not practice or hold out to others as a bodywork therapist  
21 without first applying for and receiving from the Board a license to engage in that  
22 practice.

23           (b) A person holds out to others as a bodywork therapist when the person adopts or  
24 uses any title or description including 'massage therapist', 'massage practitioner',  
25 'massagist', 'masseur', 'masseuse', 'myotherapist', 'somatic therapist', 'somatic practitioner',  
26 'body therapist', 'bodyworker', 'bodywork therapist', 'structural integrator', 'movement  
27 educator', 'acupressurist', or any derivation of those terms that implies this practice.

28           (c) It shall be unlawful to advertise using the term 'massage' or 'bodywork  
29 technique' or any other term that implies a soft tissue technique or method in any public  
30 or private publication or communication by a person not licensed under this Article as a  
31 bodywork therapist. Any person who holds a license to practice as a bodywork therapist  
32 in this State may use the title 'Licensed Bodywork Therapist' and the abbreviation 'L.B.T.'  
33 No other person shall assume this title or use this abbreviation or any other word, letters,  
34 signs, or figures to indicate that the person using the title is a licensed bodywork  
35 therapist. An establishment employing or contracting with persons licensed under this  
36 Article may advertise on behalf of those persons.

37 **"§ 90-474. Exemptions.**

38           Nothing in this Article shall be construed to prohibit or affect:

- 39           (1) The practice of a profession by persons who are licensed, certified, or  
40 registered under other laws of this State and who are performing  
41 services within their authorized scope of practice.

- 1           (2)    The practice of bodywork by a person employed by the government of  
2           the United States while the person is engaged in the performance of  
3           duties prescribed by the laws and regulations of the United States.
- 4           (3)    The practice of bodywork by persons duly licensed in another state,  
5           territory, or the District of Columbia when incidentally called into this  
6           State for consultation with a person licensed under this Article.
- 7           (4)    Students enrolled in programs approved by the Board, while engaged in  
8           completing a clinical requirement for graduation that shall be performed  
9           under the supervision of a person licensed under this Article.
- 10          (5)    A person giving bodywork to members of that person's immediate  
11          family.
- 12          (6)    A person specified in G.S. 90-153 or a person employed by a hospital or  
13          other health care facility licensed under Article 5 of Chapter 131E of the  
14          General Statutes, Part A of Article 6 of Chapter 131E of the General  
15          Statutes, or Article 2 of Chapter 122C of the General Statutes.
- 16          (7)    The practice of bodywork therapies by persons employed by nonprofit  
17          corporations qualified under 26 U.S.C. § 501(c) that provide bodywork  
18          as an incidental service available only to dues-paying members and  
19          whose primary business is not this practice.
- 20          (8)    The practice of movement educators such as dance therapists or  
21          teachers, yoga teachers, personal trainers, martial arts instructors, and  
22          other such professions.

23    **§ 90-475. North Carolina Board of Bodywork Therapies.**

24          (a)    The North Carolina Board of Bodywork Therapies is created. The Board shall  
25          consist of seven members who are residents of this State and are as follows:

- 26               (1)    Five members shall be bodywork therapists with at least five years of  
27               bodywork practice in North Carolina and who have been licensed under  
28               this Article. The appointments shall be made from lists provided by  
29               those covered in this Article. These members shall represent the  
30               diversity of disciplines within the profession. One of the five members  
31               shall be appointed by the General Assembly upon the recommendation  
32               of the Speaker of the House of Representatives, one shall be appointed  
33               by the General Assembly upon the recommendation of the President Pro  
34               Tempore of the Senate, and three shall be appointed by the Governor.
- 35               (2)    The remaining two members shall be members of the general public  
36               who shall not have been licensed or have any financial interest, direct or  
37               indirect, in the profession regulated. One of these members shall be  
38               appointed by the General Assembly upon the recommendation of the  
39               Speaker of the House of Representatives and one shall be appointed by  
40               the General Assembly upon the recommendation of the President Pro  
41               Tempore of the Senate.

42          (b)    Legislative appointments shall be made in accordance with G.S. 120-121. A  
43          vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

1 (c) Each member of the Board shall serve for a term of three years, ending on June  
2 30 of the last year of the term. A member shall not be appointed to serve more than two  
3 consecutive terms.

4 (d) The Board shall elect annually a chair and other officers as it deems necessary.  
5 The Board shall meet as often as necessary for the conduct of business but no less than  
6 twice a year. The Board shall establish procedures governing the calling, holding, and  
7 conducting of regular and special meetings. A majority of the Board shall constitute a  
8 quorum.

9 (e) Each member of the Board may receive per diem and reimbursement for travel  
10 and subsistence as set forth in in G.S. 93B-5.

11 **"§ 90-476. Powers and duties.**

12 The Board shall have the following powers and duties:

- 13 (1) The Board shall at all times represent the diversity within the profession  
14 when making decisions and shall stay current and informed with  
15 information regarding the various branches of bodywork therapies;
- 16 (2) Evaluate the qualifications of applicants for licensure under this Article;
- 17 (3) Issue, renew, deny, suspend, or revoke licenses under this Article;
- 18 (4) Reprimand or otherwise discipline licensees under this Article;
- 19 (5) Conduct investigations to determine whether violations of this Article  
20 exist or constitute grounds for disciplinary action against licensees  
21 under this Article;
- 22 (6) Conduct administrative hearings in accordance with Chapter 150B of  
23 the General Statutes when a contested case, as defined in G.S. 150B-  
24 2(2), arises under this Article;
- 25 (7) Employ professional, clerical, or other special personnel necessary to  
26 carry out the provisions of this Article and purchase or rent necessary  
27 office space, equipment, and supplies;
- 28 (8) Establish reasonable fees for applications for examination, certificates  
29 of licensure and renewal, and other services provided by the Board;
- 30 (9) Adopt, amend, or repeal any rules necessary to carry out the purposes of  
31 this Article and the duties and responsibilities of the Board;
- 32 (10) Appoint from its own membership one or more members to act as  
33 representatives of the Board at any meeting where such representation is  
34 deemed desirable;
- 35 (11) Maintain a record of all proceedings and make available to certificate  
36 holders and other concerned parties an annual report of the Board;
- 37 (12) Adopt a seal containing the name of the Board for use on all certificates  
38 and official reports issued by it;
- 39 (13) Approve or establish requirements for bodywork therapies schools,  
40 instructors, education curriculum, examinations for licensure, the  
41 practice of advanced techniques or specialties, and bodywork therapies  
42 establishments; and
- 43 (14) Provide a system for grievances to be presented and resolved.

1 The powers and duties set out in this section are granted for the purpose of enabling the  
2 Board to safeguard the public health, safety, and welfare against unqualified or  
3 incompetent practitioners and are to be liberally construed to accomplish this objective.

4 **"§ 90-477. Custody and use of funds.**

5 All fees and other moneys collected and received by the Board shall be used for the  
6 purposes of implementing this Article.

7 **"§ 90-478. Expenses and fees.**

8 (a) All salaries, compensation, and expenses incurred or allowed for the purposes  
9 of this Article shall be paid by the Board exclusively out of the fees received by the  
10 Board as authorized by this Article or from funds received from other sources. In no case  
11 shall any salary, expense, or other obligations of the Board be charged against the State  
12 treasury.

13 (b) The schedule of fees may include the following and be adjusted as the Board  
14 deems necessary:

- |    |     |                                    |                 |
|----|-----|------------------------------------|-----------------|
| 15 | (1) | <u>Application for examination</u> | <u>\$150.00</u> |
| 16 | (2) | <u>License fee</u>                 | <u>100.00</u>   |
| 17 | (3) | <u>License renewal</u>             | <u>75.00</u>    |
| 18 | (4) | <u>Late renewal penalty</u>        | <u>50.00</u>    |
| 19 | (5) | <u>License by reciprocity</u>      | <u>50.00</u>    |
| 20 | (6) | <u>Duplicate license</u>           | <u>15.00</u>    |
| 21 | (7) | <u>Provisional license</u>         | <u>100.00.</u>  |

22 **"§ 90-479. Requirements for licensure.**

23 Upon application to the Board and the payment of the required fees, an applicant may  
24 be licensed if the applicant meets all of the following qualifications:

- |    |     |  |
|----|-----|--|
| 25 | (1) | <u>Has obtained a high school diploma or equivalent.</u>   |
| 26 | (2) | <u>Is 18 years of age or older.</u>  |
| 27 | (3) | <u>Is of good moral character as determined by the Board.</u>  |
| 28 | (4) | <u>Has successfully completed a course of study consisting of a minimum</u><br>29 <u>of 500 classroom hours of supervised instruction with a curriculum that</u><br>30 <u>meets the basic guidelines established by the Board.</u> |
| 31 | (5) | <u>Successfully completes an examination administered or approved by the</u><br>32 <u>Board.</u>   |

33 **"§ 90-480. Reciprocity.**

34 (a) Upon payment of the appropriate application fee, the Board may waive the  
35 examination, educational, or experience requirements and grant a license to any applicant  
36 who presents proof of current certification or licensure as a bodywork therapist of another  
37 state, the District of Columbia, or territory of the United States that requires standards for  
38 certification or licensure considered by the Board to be equivalent to the requirements for  
39 licensure in this State.

40 (b) Upon receipt of an application for reciprocity, the Board shall contact each  
41 jurisdiction that has previously certified or licensed the applicant to determine whether or  
42 not there are disciplinary proceedings or unresolved complaints pending against the  
43 applicant. In the event a disciplinary proceeding or an unresolved complaint is pending,

1 the applicant shall not be licensed until the proceeding or the complaint has been resolved  
2 in the applicant's favor.

3 (c) Reciprocity may not be granted if the state in which the applicant is licensed  
4 has not granted a similar reciprocity to licensees in this State.

5 **"§ 90-481. Provisional licensure.**

6 If an applicant does not meet the approved educational requirements, then for a  
7 maximum period of two years after the establishment of the Board, the Board may waive  
8 the educational requirements and allow a provisional license to be obtained. At the end  
9 of two years after the granting of the provisional license, an applicant for a license to  
10 practice bodywork therapies shall successfully pass the examination that has been  
11 approved by the Board to receive a license to practice bodywork therapies. An applicant  
12 for a provisional license shall meet the requirements set forth in G.S. 90-479 (1) and  
13 (2) and shall submit all of the following for consideration by the Board:

14 (1) Verification and documentation of a minimum of 500 hours of  
15 professional practice in the field of bodywork therapies within a two-  
16 year period prior to the application.

17 (2) Verification that the applicant has been practicing in the State at the  
18 time the application is submitted.

19 (3) Three letters of reference from sources approved by the Board attesting  
20 to the sound moral character, professional qualifications, and  
21 competence of the applicant.

22 **"§ 90-482. Bodywork therapies schools.**

23 The Board shall establish rules for the approval of bodywork therapies schools. The  
24 Board shall approve schools that are both within the State and outside the state that meet  
25 its established criteria. These criteria shall include, but may not be limited to, the  
26 instruction in theory, application, and safe practice of bodywork therapies and the  
27 structure and function of the human body. Each school shall be licensed by the  
28 educational licensing authority in the state in which it operates. Each school shall  
29 provide the Board with annual updates of any changes in curriculum content.

30 **"§ 90-483. License renewal and continuing education.**

31 The license to practice under this Article shall be renewed every two years. When  
32 renewing a license, each licensee shall submit to the Board evidence of the successful  
33 completion of at least 15 hours of study, as approved by the Board, in the field of  
34 bodywork therapies during the immediately preceding two years.

35 **"§ 90-484. Disciplinary action.**

36 The Board may deny, suspend, revoke, or refuse to license a bodywork therapist or  
37 applicant under any of the following grounds:

38 (1) The employment of fraud, deceit, or misrepresentation in obtaining or  
39 attempting to obtain a license or the renewal of a license.

40 (2) The use of drugs or intoxicating liquors to an extent that affects  
41 professional competency.

- 1           (3)   Conviction of an offense under any municipal, State, or federal narcotic  
2           or controlled substance law until proof of rehabilitation can be  
3           established.
- 4           (4)   Conviction of a felony or other public offense involving moral turpitude  
5           until proof of rehabilitation can be established.
- 6           (5)   An adjudication of insanity or incompetency until proof of recovery  
7           from the condition can be established.
- 8           (6)   Engaging in any act or practice violation of any of the provisions of this  
9           Article or of any of the rules adopted by the Board, or aiding, abetting,  
10          or assisting any other person in the violation of these provisions or  
11          rules.
- 12          (7)   The commission of an act of malpractice, gross negligence, or  
13          incompetency.
- 14          (8)   Practice as a licensee under this Article without a valid certificate or  
15          renewal.
- 16          (9)   Engaging in conduct that could result in harm or injury to the public.
- 17          (10) The employment of fraud, deceit, or misrepresentation when  
18          communicating with the general public, health care professionals, or  
19          other business professionals.
- 20          (11) Falsely holding out as licensed or certified in any discipline of  
21          bodywork therapies without successfully completing training approved  
22          by the Board in that specialty.

23 **"§ 90-485. Enforcement; injunctive relief.**

24       (a)   It is unlawful for a person not licensed or exempted under this Article to  
25       engage in any of the following:

- 26           (1)   Practice of bodywork therapies.
- 27           (2)   Advertise, represent, or hold out to others to be a bodywork therapist.
- 28           (3)   Use any title descriptive of any branch of bodywork, as set forth in G.S.  
29           90-473, to describe his or her practice.

30       (b)   A person who violates subsection (a) of this section shall be guilty of a Class 1  
31       misdemeanor.

32       (c)   The Board may make application to superior court for an order enjoining a  
33       violation of this Article. Upon a showing by the Board that a person has violated or is  
34       about to violate this Article, the court may grant an injunction, restraining order, or take  
35       other appropriate action.

36 **"§ 90-486. Third-party reimbursement.**

37       Nothing in this Article shall be construed to require direct third-party reimbursement  
38       to persons licensed under this Article."

39       Sec. 2. Notwithstanding the provisions of G.S. 90-475(a), as enacted in  
40 Section 1 of this act, the terms of initial appointments to the North Carolina Board of  
41 Bodywork Therapies shall be as follows:

1           (1)    The terms of the three members appointed by the Governor pursuant to  
2                    G.S. 90-475(a)(1), as enacted in Section 1 of this act, shall expire June  
3                    30, 1998.

4           (2)    The terms of all other members shall expire June 30, 1997.

5           Sec. 3. The five initial appointments to the North Carolina Board of Bodywork  
6 Therapies pursuant to G.S. 90-475(a)(1), as enacted in Section 1 of this act, shall satisfy  
7 all of the provisions of G.S. 90-475(a)(1), except the licensure requirement, and shall  
8 satisfy the provisions of G.S. 90-479(1) through (4), as enacted in Section 1 of this act,  
9 except the 500 classroom hours of supervised instruction need not be with curriculum  
10 that meets the basic guidelines established by the North Carolina Board of Bodywork  
11 Therapies.

12           Sec. 4. The provisions of this act are severable, and if any provision of this act  
13 is held invalid by a court of competent jurisdiction, the invalidity shall not affect other  
14 provisions of this act that can be given effect without the invalid provision.

15           Sec. 5. This act becomes effective January 1, 1996, and applies to offenses  
16 occurring on or after that date.