

# HOUSE BILL 1157

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By: **Delegate Hubbard**

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Massage Therapy – Authority to Practice**

3 FOR the purpose of requiring applicants for a license or registration from the State  
4 Board of Chiropractic and Massage Therapy Examiners to submit to a certain  
5 criminal history records check; requiring certain applicants to submit certain  
6 fingerprints and certain fees to the Criminal Justice Information System  
7 Central Repository of the Department of Public Safety and Correctional  
8 Services under certain circumstances; requiring the Central Repository to  
9 forward certain information to the Board and to certain applicants; providing  
10 that certain information is confidential and may be used only for certain  
11 purposes; authorizing the subject of a certain criminal history records check to  
12 contest the contents of a certain statement; requiring an individual to be  
13 registered by the Board before the individual may practice massage therapy in a  
14 certain setting; requiring an applicant for a certain license to have submitted to  
15 a certain criminal history records check to qualify for a license; altering certain  
16 educational requirements an applicant for a license to practice massage therapy  
17 must meet to qualify for a license; requiring an applicant for a certain  
18 registration to have submitted to a certain criminal history records check to  
19 qualify for a registration; altering certain educational requirements an  
20 applicant for a registration to practice massage in a certain setting must meet  
21 to qualify for registration; requiring the Board to issue a license or registration  
22 to an applicant who pays a certain fee and meets certain requirements;  
23 requiring the Board to include certain information on each license and  
24 registration that the Board issues; requiring the Board to consider certain  
25 factors on receipt of the criminal history record of certain applicants in  
26 determining whether to grant a license or registration; repealing a certain  
27 provision of law that prohibits an individual who is registered to practice  
28 nontherapeutic massage from practicing in certain offices, hospitals, or  
29 facilities; altering certain definitions; repealing a certain definition; making  
30 conforming changes; and generally relating to the practice of massage therapy  
31 in the State.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
 2 Article – Health Occupations  
 3 Section 3–5A–01(a)  
 4 Annotated Code of Maryland  
 5 (2009 Replacement Volume and 2013 Supplement)

6 BY repealing and reenacting, with amendments,  
 7 Article – Health Occupations  
 8 Section 3–5A–01(c), (i), and (j), 3–5A–04, 3–5A–06, and 3–5A–11(b) to be under  
 9 the amended subtitle “Subtitle 5A. Licensure and Registration of  
 10 Massage Therapists”  
 11 Annotated Code of Maryland  
 12 (2009 Replacement Volume and 2013 Supplement)

13 BY adding to  
 14 Article – Health Occupations  
 15 Section 3–5A–05.1 and 3–5A–06.1  
 16 Annotated Code of Maryland  
 17 (2009 Replacement Volume and 2013 Supplement)

18 BY repealing  
 19 Article – Health Occupations  
 20 Section 3–5A–01(h) and 3–5A–08  
 21 Annotated Code of Maryland  
 22 (2009 Replacement Volume and 2013 Supplement)

23 BY renumbering  
 24 Article – Health Occupations  
 25 Section 3–5A–09 through 3–5A–16, respectively  
 26 to be Section 3–5A–08 through 3–5A–15, respectively  
 27 Annotated Code of Maryland  
 28 (2009 Replacement Volume and 2013 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article – Health Occupations**

32 Subtitle 5A. **[Certification] LICENSURE AND REGISTRATION** of Massage Therapists.

33 3–5A–01.

34 (a) In this subtitle the following words have the meanings indicated.

35 (c) “Health care [facility] has the meaning stated in § 19–114(d) of the  
 36 Health – General Article] **SETTING” MEANS:**

1           **(1) THE OFFICE OF A HEALTH CARE PROVIDER REGULATED**  
2 **UNDER THIS ARTICLE; OR**

3           **(2) A HEALTH CARE FACILITY AS DEFINED IN § 19-114 OF THE**  
4 **HEALTH – GENERAL ARTICLE.**

5           **[(h) “Practice non-therapeutic massage” means to engage professionally and**  
6 **for compensation in massage therapy in a setting that is not a health care facility.]**

7           **[(i) (H) “Registered massage practitioner” means an individual who is**  
8 **registered by the Board to practice [non-therapeutic] massage THERAPY IN A**  
9 **SETTING THAT IS NOT A HEALTH CARE SETTING.**

10           **[(j) (I) “Registration” means, unless the context requires otherwise, a**  
11 **registration issued by the Board to practice [non-therapeutic] massage THERAPY IN**  
12 **A SETTING THAT IS NOT A HEALTH CARE SETTING.**

13 **3-5A-04.**

14           Except as otherwise provided in this subtitle, an individual shall be:

15           **(1) Licensed by the Board before the individual may practice massage**  
16 **therapy in this State; or**

17           **(2) Registered by the Board before the individual may practice**  
18 **[non-therapeutic] massage THERAPY IN A SETTING THAT IS NOT A HEALTH CARE**  
19 **SETTING in this State.**

20 **3-5A-05.1.**

21           **(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL**  
22 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**  
23 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

24           **(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A**  
25 **STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT**  
26 **SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

27           **(1) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON**  
28 **FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE**  
29 **DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

1           **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**  
2 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**  
3 **RECORDS; AND**

4           **(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU**  
5 **OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

6           **(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**  
7 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**  
8 **TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD**  
9 **INFORMATION OF THE APPLICANT.**

10           **(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL**  
11 **ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN**  
12 **ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY**  
13 **THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE**  
14 **FEDERAL BUREAU OF INVESTIGATION.**

15           **(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER**  
16 **THIS SECTION:**

17                   **(1) SHALL BE CONFIDENTIAL;**

18                   **(2) MAY NOT BE REDISSEMINATED; AND**

19                   **(3) SHALL BE USED ONLY FOR THE LICENSING OR REGISTRATION**  
20 **PURPOSE AUTHORIZED BY THIS TITLE.**

21           **(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**  
22 **THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT**  
23 **ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE**  
24 **CRIMINAL PROCEDURE ARTICLE.**

25 3-5A-06.

26           **(a) To qualify for a license, an applicant shall be an individual who:**

27                   **(1) Is of good moral character;**

28                   **(2) Is at least 18 years old;**

29                   **(3) HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK IN**  
30 **ACCORDANCE WITH § 3-5A-05.1 OF THIS SUBTITLE;**

1                   **[(3)] (4)**     Has satisfactorily completed [at]:

2                   **(I)**     **AT** least 60 credit hours of education at an institution of  
3 higher education as defined in § 10–101 of the Education Article and as approved by  
4 the Board and the Maryland Higher Education Commission **OF WHICH A MINIMUM**  
5 **OF 24 CREDIT HOURS SHALL HAVE BEEN IN THE FOLLOWING APPLIED SCIENCE**  
6 **AREAS OF CONTENT:**

- 7                   1.     **INTRODUCTION TO MASSAGE;**
- 8                   2.     **STRUCTURE AND FUNCTION OF THE HUMAN**  
9 **BODY;**
- 10                  3.     **SWEDISH MASSAGE;**
- 11                  4.     **MEDICAL TERMINOLOGY;**
- 12                  5.     **DEEP TISSUE MASSAGE;**
- 13                  6.     **ADVANCED MASSAGE TECHNIQUES;**
- 14                  7.     **KINESIOLOGY FOR MASSAGE THERAPISTS; OR**
- 15                  8.     **BUSINESS FOR BODY WORKERS; OR**

16                  **(II)** 1.     **AT LEAST 60 CREDIT HOURS OF EDUCATION AT AN**  
17 **INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10–101 OF THE**  
18 **EDUCATION ARTICLE AND AS APPROVED BY THE MARYLAND HIGHER**  
19 **EDUCATION COMMISSION; AND**

20                         2.     **24 HOURS OF ADVANCED MASSAGE THERAPY**  
21 **CONTINUING EDUCATION AS APPROVED BY THE BOARD IN THE FOLLOWING**  
22 **APPLIED SCIENCE AREAS OF CONTENT:**

- 23                   A.     **INTRODUCTION TO MASSAGE;**
- 24                   B.     **STRUCTURE AND FUNCTION OF THE HUMAN**  
25 **BODY;**
- 26                   C.     **SWEDISH MASSAGE;**
- 27                   D.     **MEDICAL TERMINOLOGY;**

- 1                   **E. DEEP TISSUE MASSAGE;**  
2                   **F. ADVANCED MASSAGE TECHNIQUES;**  
3                   **G. KINESIOLOGY FOR MASSAGE THERAPISTS; OR**  
4                   **H. BUSINESS FOR BODY WORKERS;**

5                   **[(4)] (5)** Has completed **[500] 600** hours of education in a Board  
6 approved program for the study of massage therapy that includes the following areas  
7 of content:

- 8                   (i) Anatomy **[and]**, physiology, **AND KINESIOLOGY;**  
9                   (ii) Massage theory, techniques, and practice;  
10                  (iii) Contraindications to massage therapy; and  
11                  (iv) Professional ethics; and

12                  **[(5)] (6)** Has passed an examination approved by the Board.

13                  (b) To qualify for registration, an applicant shall be an individual who:

- 14                   (1) Is of good moral character;  
15                   (2) Is at least 18 years old;

16                  **(3) HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK IN**  
17 **ACCORDANCE WITH § 3-5A-05.1 OF THIS SUBTITLE;**

18                  **[(3)] (4)** Has completed **[500] 600** hours of education in a Board  
19 approved program for the study of massage therapy that includes the following areas  
20 of content:

- 21                   (i) Anatomy **[and]**, physiology, **AND KINESIOLOGY;**  
22                   (ii) Massage theory, techniques, and practice;  
23                   (iii) Contraindications to massage therapy; and  
24                   (iv) Professional ethics; and

25                  **[(4)] (5)** Has passed an examination approved by the Board.

26                  **3-5A-06.1.**

1           **(A) THE BOARD SHALL ISSUE A LICENSE OR REGISTRATION TO ANY**  
2 **APPLICANT WHO:**

3                   **(1) PAYS A LICENSE OR REGISTRATION FEE SET BY THE BOARD;**  
4 **AND**

5                   **(2) MEETS THE REQUIREMENTS OF THIS SUBTITLE.**

6           **(B) THE BOARD SHALL INCLUDE ON EACH LICENSE AND REGISTRATION**  
7 **THAT THE BOARD ISSUES:**

8                   **(1) THE SEAL OF THE BOARD; AND**

9                   **(2) THE KIND OF LICENSE OR REGISTRATION.**

10           **(C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD**  
11 **INFORMATION OF AN APPLICANT FOR LICENSURE OR REGISTRATION**  
12 **FORWARDED TO THE BOARD IN ACCORDANCE WITH § 3-5A-05.1 OF THIS**  
13 **SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR REGISTRATION,**  
14 **THE BOARD SHALL CONSIDER:**

15                           **(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**

16                           **(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**

17                           **(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE**  
18 **CRIME;**

19                           **(IV) SUBSEQUENT WORK HISTORY;**

20                           **(V) EMPLOYMENT AND CHARACTER REFERENCES; AND**

21                           **(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE**  
22 **APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

23                   **(2) THE BOARD MAY NOT ISSUE A LICENSE OR REGISTRATION IF**  
24 **THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 3-5A-05.1**  
25 **OF THIS SUBTITLE HAS NOT BEEN RECEIVED.**

26 **[3-5A-08.**

1 An individual who is registered to practice non-therapeutic massage under §  
2 3-5A-06 of this subtitle may not practice in a medical health care provider's office,  
3 hospital, or other health care facility for the purpose of providing massage.]

4 3-5A-11.

5 (b) If, after a hearing under § 3-315 of this title, the Board finds that there  
6 are grounds under subsection (a) of this section to suspend or revoke a license **OR**  
7 **REGISTRATION** to practice massage therapy [or registration to practice  
8 non-therapeutic massage], to reprimand a licensee or registration holder, or place a  
9 licensee or registration holder on probation, the Board may impose a penalty not  
10 exceeding \$5,000 in lieu of or in addition to suspending or revoking the license or  
11 registration, reprimanding the licensee or registration holder, or placing the licensee  
12 or registration holder on probation.

13 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-5A-09  
14 through 3-5A-16, respectively, of Article – Health Occupations of the Annotated Code  
15 of Maryland be renumbered to be Section(s) 3-5A-08 through 3-5A-15, respectively.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2014.