



# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report  
for

## Massage/Bodywork Therapy

House Bill 1077



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

May 19, 1997

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the licensing of massage/bodywork therapists. This report constitutes both the preliminary and final assessment report.

*W. Frank Mitchell*

Representative Frank Mitchell, Chairman

*Linwood Jones*

Prepared by:

Linwood Jones, Counsel

**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

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Counsel: Mr. Linwood Jones  
Mrs. Linda Attarian

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## PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- (1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- (2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- (3) Whether practice of the profession requires specialized skill or training.
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- (5) Whether the public can effectively be protected by other means.
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

## **Bodywork and Massage Therapy**

Bodywork therapy, as set out in House Bill 1077, involves the application of manual techniques, passive or active stretching, mechanical devices, and other techniques to the soft tissues of the body for therapeutic, educational, or relaxing purposes, to the extent these activities do not constitute the practice of medicine, chiropractic, or certain other allied health professions licensed by the State (*see proposed G.S. §90-522(5)*).

There are an estimated 1,200-1,500 persons in North Carolina who would be licensed under House Bill 1077. Nearly one-third are already trained and qualified under the American Massage Therapy Association's certification program. The Association's Commission on Massage Training Accreditation (COMTAA) specifies a curriculum for certification that requires 500 hours of supervised classroom instruction in theory and clinical techniques in bodywork therapies (300 hours), human anatomy and physiology (100 hours) and other topics related to the practice of the profession (100 hours).

The proposal to license bodywork therapists requires at least a high school education or equivalent and the successful completion of 500 hours of Board-approved bodyworks therapy schooling and the Board examination. A license must be renewed every two years. Renewal is contingent on successful

completion of Board-approved 25 hours of bodyworks therapy study during the two year period.

There are concerns that without licensure, legitimate massage/bodyworks therapists will continue to be stigmatized by "massage parlors" around the State and the criminal activities of some of those parlors. There are also concerns that an unqualified therapist can injure a patient and may not recognize the need for referral of a more serious problem to an appropriate health care provider.

The Legislative Committee on New Licensing Boards finds that the sponsors have met the six statutory criteria by which the Committee judges licensure proposals, as follows:

- (1) The unregulated practice of the profession can substantially harm or endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote nor dependent upon tenuous argument.
- (2) The practice of the profession possesses qualities that distinguish it from ordinary labor.
- (3) The practice of the profession requires specialized skill and training.
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate the practitioner's competence.
- (5) The public cannot be effectively protected by other means.
- (6) Licensure would not have a substantial adverse economic impact upon consumers.

The Legislative Committee on New Licensing Boards recommends the licensing of bodyworks/massage therapists. This assessment report constitutes both the preliminary and the final assessment report for the licensing of bodyworks/massage therapists. The report is based on the proposed licensing of bodyworks/massage therapists as set out in House Bill 1077, the response to the Committee's questionnaire (attached), and testimony before the Committee on May 12, 1997.

REPORT to the LEGISLATIVE COMMITTEE  
on NEW LICENSING BOARDS

NORTH CAROLINA GENERAL ASSEMBLY  
SESSION 1997

**AN ACT REGULATING THE PRACTICE  
OF MASSAGE *and* BODYWORK THERAPY**

HOUSE BILL 1077

Submitted by

The North Carolina  
Therapeutic Massage & Bodywork  
Task Force



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# LICENSING for MASSAGE and BODYWORK THERAPISTS

## Position Paper

Massage and bodywork therapy is a nationally recognized health care profession which includes a broad spectrum of approaches commonly known as therapeutic massage, bodywork, somatic therapy and others.

At present, the practice is only voluntarily governed in North Carolina by the American Massage Therapy Association and other trade associations. Due to the absence of a statewide licensing board in North Carolina, those practicing massage and bodywork therapy are governed by local ordinances which attempt to regulate so-called "massage parlors" and "adult entertainment establishments." Placing such stigmatizing labels on these ethical practitioners subjects them to extensive investigation by law enforcement agencies and piecemeal regulation by many local government ordinances.

Licensure for massage and bodywork therapists who meet educational and licensure requirements set out by a Board of Massage and Bodywork Therapy is necessary to protect the public from unqualified, untrained or unethical practitioners. The practice of massage and bodywork therapy is very specialized. In addition, licensure will bring nationally recognized educational, practical and ethical principles to the practice of massage and bodywork therapy in North Carolina.

The American Massage Therapy Association, as well as medical doctors, dentists, chiropractors, nurses, psychologists and other health care professionals support the effort of the North Carolina Therapeutic Massage & Bodywork Task Force in obtaining licensure in this state. In addition, law enforcement agencies and local government officials support the effort to enact a statewide licensure program for massage and bodywork therapists that will legitimize and regulate the profession in order to protect the public.

## Explanation of the Massage and Bodywork Therapy Practice Act

The purpose of the Bill is to create mandatory licensure of those engaged in the practice of massage and bodywork therapy to ensure minimum standards of competency among practitioners and to safeguard the health, safety and welfare of the general public. Massage and bodywork therapy is a specialized practice that is not regulated in North Carolina. Currently, the only business license that most therapists are able to obtain is an adult entertainment license, thereby placing them in the same category as so-called "massage parlors" and topless bars.

### *Scope of Practice*

"Massage and bodywork therapy" is defined in the bill as systems of activity applied to the soft tissues of the body for therapeutic, educational or relaxation purposes, which

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may include a range of manual and adjunctive techniques but do not include the diagnosis of illness or disease, or medical procedures. The bill would require those persons engaged in massage and bodywork therapy to obtain a license to practice from a board to be created entitled the North Carolina Board of Massage and Bodywork Therapy. The Board shall have broad authority to adopt rules regulating massage and bodywork therapists.

#### *Requirements for Licensure*

Upon application and payment of required fees, an applicant may be licensed to practice bodywork therapies if the applicant:

- Has obtained a high school diploma or equivalent
- Is eighteen (18) years of age or older
- Is of good moral character
- Has successfully completed a course of study at a Board-approved school or program, consisting of a minimum of five hundred (500) hours of supervised classroom instruction
- Has passed the National Certification Examination in Therapeutic Massage and Bodywork, or another examination administered or approved by the Board.

No person may represent themselves as a massage and bodywork therapist, may not advertise themselves as such, and may not use any title or description using the terms "massage therapist," "bodywork therapist," etc. if they have not obtained a license.

Licenses shall be renewed biennially. When renewing a license, each massage and bodywork therapist shall submit to the Board evidence of successful completion of at least Twenty-five (25) hours of study in the field of massage and bodywork therapy during the preceding two (2) years.

#### *Exemptions*

The bill also provides for exemptions from licensure which include the practice of a profession by individuals licensed under other laws of this State who are performing services within their authorized scope of practice (such as physical therapists who use massage), and students enrolled in Board-approved massage and bodywork schools.

#### *Reciprocity and Provisional Licensure*

The bill provides for reciprocity to those licensed under laws of another State upon presenting certain documentation to the Board, or if the person holds a valid certification from the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

The bill provides for provisional licensure for two years for those practitioners who do not meet the education or certification requirements at the time the Board is established. The applicant must provide documentation of at least 500 hours of professional practice in the field of massage and bodywork therapy over a minimum four-year period, pay the

necessary fees and submit other documentation. At the end of the two-year provisional period, the person would be given a license to practice massage and bodywork therapy if they have completed the Board-approved continuing education requirements.

The bill also provides for disciplinary action to be taken by the Board for wrongdoing committed by bodywork therapists licensed under the Act.

*REPORT to the LEGISLATIVE COMMITTEE  
on NEW LICENSING BOARDS*

*I. A. In what ways has the marketplace failed to regulate adequately the profession or occupation?*

The absence of state licensure for massage and bodywork therapists has resulted in a number of different problems in the marketplace:

**Lack of educational requirements.** At the present time, virtually anyone can engage in the practice of massage and bodywork therapy in North Carolina, whether or not they have received professional training. There are individuals who hold themselves out as "massage or bodywork therapists" who are clearly not qualified to do so.

**No regulatory oversight.** Because there is no agency on local or state levels which oversees the practice of massage and bodywork therapy, there is no mechanism for identifying unqualified practitioners, for investigating claims of potentially harmful or unethical activity, or for disciplining practitioners who have violated established standards of practice.

The marketplace cannot provide these necessary regulatory functions.

**Confusion with criminal activity.** For several decades now, so-called "adult entertainment" establishments have used the terms "massage" and "massage parlor" as a front to promote prostitution and other crimes which typically occur in such places. Because of this unfortunate situation, the terms "massage" and "illicit sexual behavior" have become synonymous to many people. This has placed an undesired stigma on the legitimate and ethical practice of massage and bodywork therapy, and has prevented many people from exploring these therapeutic approaches as a viable means of restoring health and increasing well-being.

*B. Have there been any complaints about the unregulated profession?*

There have been voluminous complaints to local agencies about the so-called "massage parlors" which present a difficult law enforcement problem. Over the years, municipal boards have enacted prohibitive ordinances in an effort to rid their communities of these undesirable influences. Unfortunately, the "parlor problem" still exists in many areas of North Carolina.

There is anecdotal evidence about problems with unqualified and/or unethical massage or bodywork practitioners, but the lack of a state regulatory agency makes it almost

impossible to track such complaints. There have been grievances filed with the American Massage Therapy Association (AMTA) regarding individual members, but their proceedings are confidential. Also, since AMTA is a private membership organization, not all practitioners are necessarily members.

Since there is currently no licensing board, there has been no formal agency to which the public may complain. Other massage and bodywork therapists have received complaints from consumers and clients. Because of the desire for confidentiality, those names cannot be released. However, those complainants will be asked to contact legislators about the problem. One particular complainant is:

Ellen Rusten  
111 S. Oleander Ave.  
Goldsboro, NC 27530

*II. A. In what ways has the public health, safety or welfare sustained harm or is in imminent danger because of the lack of state regulations?*

There have been reports of individuals seeking legitimate bodywork therapies who have walked into establishments whose signage advertises "massage," only to discover scantily-clad women offering illicit sexual services. This has created emotional trauma and confusion for such individuals. These adult establishments are also havens for illegal drug activity, according to law enforcement officials. This means that "massage parlors" are sheltering a number of criminal activities which are detrimental to our communities.

There have also been reports of individuals who have been traumatized by unqualified and/or unethical bodywork practitioners. Such trauma has been identified as physical, as well as emotional in nature.

*B. Give specific examples*

As described in 1b above, the lack of a state regulatory agency for recording this information makes it difficult to give documentation of these reports. There is, however, the following example provided by a consumer:

Jennifer Tierney  
910-785-1913  
Winston-Salem, NC

Mrs. Tierney took her 11-year old daughter, who had been diagnosed with scoliosis, to be treated by a massage therapist in Winston-Salem. The therapist, James Clay, was marketing his practice under the name, "Ortho Doc" in both the Yellow Pages and on the Internet. In these advertisements, Mr. Clay was allegedly promoting that he could successfully treat scoliosis and other orthopedic conditions, especially in adolescent girls.

According to Mrs. Tierney, Mr. Clay performed an inappropriate physical examination on her daughter, which made her extremely uncomfortable. She reported that his use of massage techniques also seemed inappropriate, and further agitated her daughter. After this

incident, Mrs. Tierney filed a complaint with the Winston-Salem Police Department. Detective William Kiger investigated, and found cause to believe that Mr. Clay may have been practicing medicine without a license. He informed the North Carolina Board of Medical Examiners of this complaint, but was told by the Board that they had no regulatory control over Mr. Clay since he was not a licensed Medical Doctor. Detective Kiger then referred the matter to the Attorney General's office.

*II. A. Is there potential for substantial harm or danger by the profession to the public safety or welfare? How can this potential be recognized?*

There exists potential for substantial harm to the public safety and welfare because of the current problem of criminal activities which are promoted under the term "massage." Harm could also result from the current presence of unqualified and/or unethical practitioners in the profession. Qualified massage and bodywork therapists know how to determine whether there are medical conditions present in an individual which may be contraindicated for massage. Unqualified practitioners could treat an individual with a contraindicated medical condition and cause injury, or even death.

There is potential for physical harm by the inappropriate use of modalities some would call massage and bodywork therapy. By having a licensing board, and restricting those who may advertise the practice of massage and bodywork therapy, the public will be ensured that the therapist they see will have the minimum requirements to practice safely and ethically.

*(continued)*

B. Has this potential harm or danger to the public been recognized by other states or the Federal government through the licensing or certification process? Please list the other states and give the relevant statutory citations.

At present, at least 25 states, plus the District of Columbia have licensing or certification boards regulating the practice of massage therapy and bodywork. They include:

Alabama	New Mexico
Arkansas	North Dakota (registration)
Connecticut	New York
Delaware (certification)	Ohio
District of Columbia (certification)	Oregon
Florida	Rhode Island
Hawaii	South Carolina
Iowa	Tennessee
Louisiana	Texas (registration)
Maine (registration)	Utah
Maryland	Virginia (certification)
Nebraska	Washington
New Hampshire	West Virginia

In addition, the following North Carolina municipalities or counties have enacted new massage therapy ordinances or amended existing ordinances which require professional training and/or certification as a part of licensure requirements:

Asheboro	Charlotte	Hickory
Asheville	City of Durham	Moore County
Black Mountain	Durham County	Wilmington
Burlington	Greensboro	Winston-Salem

IV A. What will be the economic advantage of licensing to the public?

Licensure and its resulting professional regulation will attract more well-trained, ethical practitioners to the field of massage and bodywork therapy, and will therefore expand the public's access to these services. The spectrum of massage and bodywork therapies are viewed as a cost-effective means of health care which emphasizes prevention and wellness; its utilization can help the public save money on overall health care costs.



*B. What will be the economic disadvantage of licensing to the public?*

None anticipated. An expanded base of licensed practitioners will encourage healthy competition in the marketplace. This will help maintain costs for therapeutic services at present levels.

*C. What will be the economic advantage of licensing to the practitioner?*

Increased public awareness of massage and bodywork therapy and consistent standards for professional practice will create more job opportunities for practitioners in the future.

There are existing municipal "massage parlor" ordinances which require exorbitant license and investigation fees. State licensure would eliminate those ordinances and uphold one consistent and reasonable fee structure for all practitioners across North Carolina.

Licensing will help the image of the profession, will give credit to the therapists who do meet the minimum requirements, will help maintain higher standards for the entire profession, and will eliminate piecemeal, burdensome restrictions.

*D. What will be the economic disadvantage of licensing to the practitioner?*

For those practitioners not affected by existing municipal ordinances, there would be a modest economic impact from licensure and examination fees.

*E. Please give other potential benefits to the public of licensing that would outweigh the potential harmful effects of licensure.*

As evidenced by activity in other states which license massage and bodywork therapists, there will be an increased number of practitioners interested in and available to provide community service. For example, therapists have provided massage and bodywork therapy to: relief workers and persons displaced by natural disasters such as hurricanes and fires, persons with terminal medical conditions, persons at fund raising events for charities, etc.

*V. A. Please detail the specific specialized skills or training that distinguish the profession from ordinary labor. How is each justified?*

Simple massage techniques can be given by almost anyone who has the intention to help another person feel better. By contrast, the professional practice of massage and bodywork therapy requires a specific body of knowledge and skills in order to be carried out safely and effectively as a health care discipline.

This specialized training includes clinical techniques, theory, anatomy and physiology, ethical principles and adjunctive methods. There are many schools of massage therapy and

bodywork systems which offer such training. Nationally, the primary agency which reviews and approves these school programs is the AMTA Commission on Massage Training Accreditation/Approval (COMTAA). COMTAA specifies a minimum curriculum of 500 hours of supervised classroom instruction, in the following areas:

- 300 hours of theory and clinical techniques in bodywork therapies
- 100 hours of human anatomy and physiology, including the medical indications and contraindications for bodywork therapies
- 100 hours of adjunctive subjects, which typically includes: Basic First Aid & CPR, communication skills, practice laws and professional ethics, protocol for working with other health care providers, and business practices.

In North Carolina, licensure for schools of massage and bodywork therapy is presently handled by the NC Community Colleges System, Division of Proprietary Schools Services, which is directed by Dr. Carolyn Girardeau. The Community Colleges System began requiring licensure of massage and bodywork therapy schools in 1988, and established a minimum curriculum requirement of 500 hours.

There are presently ten schools or training programs in North Carolina which offer a curriculum which would satisfy the educational requirements proposed in House Bill 1077. These institutions are organized together as the North Carolina Council of Therapeutic Massage and Bodywork Schools.

*B. What are other qualities of the profession that distinguish it from ordinary labor?*

There is the National Certification Board for Therapeutic Massage and Bodywork, based in McLean, VA. The Board's mission is: *to foster high standards of ethical and professional practice in the delivery of services through a recognized credentializing program that assures the competency of practitioners of therapeutic massage and bodywork.*

The largest professional organization in this field is the American Massage Therapy Association, headquartered in Chicago, IL. Nationally, there are more than 25,000 members, with over 450 members in the North Carolina Chapter. AMTA is governed by a National Board of Directors; each state chapter has its own autonomous board. The mission of AMTA is: *to develop and advance the art, science and practice of massage therapy in a caring, professional and ethical manner in order to promote the health and welfare of humanity.*

Goals which AMTA pursues on both state and national levels include:

- *To establish massage therapy as integral to the maintenance of good health and complementary to other health care practices*
- *To ensure the highest standards in providing massage therapy to the public*
- *To provide access to quality massage therapy for all persons*
- *To oversee legislative and regulatory issues in the field of massage therapy*

- *To fund research into the therapeutic effects of massage therapy through the AMTA Foundation.*

VI. A. *Will licensing requirements cover all practicing members of the profession?*

Yes, if they meet the definition of the practice of massage and bodywork therapy. Exemptions include those giving massage and bodywork to members of their own family, and those whose present profession (such as physical therapists) includes modalities which are also utilized in bodywork therapies.

Existing massage and bodywork practitioners who do not meet the new educational requirements will be able to receive a provisional license for a period of two years after the establishment of the Board of Massage and Bodywork Therapy. After that period has expired, those persons will be required to submit documentation that they have completed the prescribed continuing education requirement receive a license to practice.

B. *What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the profession?*

At present, there are approximately 1200-1500 persons who would be regulated by this Act. Because of the wide range of applicability of massage and bodywork therapy for both preventive and corrective needs, there are few individuals in North Carolina who would not be potential candidates to utilize these professional services.

VII. *What kind of knowledge or experience does the public need to have to be able to evaluate the services offered by the profession?*

There are objective and subjective means for evaluation. The public must know that there are professional and ethical standards for the practice of massage and bodywork therapy, and should inquire as to whether or not a practitioner has received proper training and credentials. Individuals who receive massage therapy should trust their own internal knowledge in order to subjectively evaluate the effectiveness of a given therapy session.

In addition, if licensure is granted to persons practicing massage and bodywork therapy, those advertising as massage and bodywork therapists will only be those who are licensed. The public will have to discern whether those advertising in other ways to connote massage and bodywork therapy services but not using the terms massage therapy or bodywork are establishments they want to patronize.

VIII. *Does the occupational group have an established code of ethics, a voluntary certification program or other measures to ensure a minimum quality of service?*

The National Certification Board for Therapeutic Massage and Bodywork established a voluntary certification program in 1993, which is accredited by the National Organization

for Competency Assurance. At present, over 24,000 practitioners have satisfied the educational requirements and passed the National Certification Examination in Therapeutic Massage and Bodywork, thus earning the professional designation: *Nationally Certified in Therapeutic Massage and Bodywork*. As well, there is a Code of Ethics established by the National Certification Board (see enclosed).

There is a minimum training curriculum for massage and bodywork therapy schools which has been established by the AMTA/COMTAA; there is a Code of Ethics established by the American Massage Therapy Association.

*IX. Please cite and document the extent which any other licensing board in NC regulates similar or parallel functions to the profession.*

Massage is traditionally included in the scopes of practice for nursing, cosmetology and physical therapy. The amount of specific classroom training in massage techniques that each of these professions receives is minimal -- 25 hours or less. As well, the actual utilization of these techniques in their respective practices is typically regarded as minimal.

The Act will continue to allow those practitioners to include massage in their practices if massage is within their authorized scope of practice.

# EXHIBITS

**NATIONAL CERTIFICATION BOARD  
FOR THERAPEUTIC MASSAGE AND BODYWORK**

**CODE OF ETHICS**

- The Code of Ethics of the National Certification Board for Therapeutic Massage and Bodywork (NCTMB) specifies professional standards that allow for the proper discharge of the massage therapist and/or bodyworker's responsibilities to those served, that protects the integrity of the profession and safeguards the interest of individual clients.
- Those practitioners Nationally Certified in Therapeutic Massage and Bodywork (NCTMB), in the exercise of professional accountability, will:
  - Have a sincere commitment to provide the highest quality of care to those that seek their professional services.
  - Represent their qualifications honestly, including education and professional affiliations, and provide only those services which they are qualified to perform.
  - Accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline.
  - Acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals.
  - Provide treatment only where there is reasonable expectation that it will be advantageous to the client.
  - Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training.
  - Conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons.
  - Refuse to unjustly discriminate against clients or other ethical health professionals.
  - Safeguard the confidentiality of all client information, unless disclosure is required by law, court order, or absolutely necessary for the protection of the public.
- Respect the client's right to treatment with informed and voluntary consent. The NCTMB practitioner will obtain and record the informed consent of the client, or client's advocate, before providing treatment. This consent may be written or verbal.
- Respect the client's right to refuse, modify, or terminate treatment regardless of prior consent given.
- Provide draping and treatment in a way that ensures the safety, comfort and privacy of the client.
- Exercise the right to refuse to treat any person or part of the body for just and reasonable cause.
- Refrain, under all circumstances, from initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship.
- Avoid any interest, activity or influence which might be in conflict with the practitioner's obligation to act in the best interests of the client or the profession.
- Respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and the client's reasonable expectations of professional behavior. Practitioners will respect the client's autonomy.
- Refuse any gifts or benefits which are intended to influence a referral, decision or treatment that are purely for personal gain and not for the good of the client.
- Follow all policies, procedures, guidelines, regulations, codes, and requirements promulgated by the National Certification Board for Therapeutic Massage and Bodywork.