

HOUSE BILL NO. 1071

Introduced by

Human Services Committee

(At the request of the Board of Massage)

1 A BILL for an Act to create and enact a new section to chapter 43-25 of the North Dakota
2 Century Code, relating to a massage therapist's use of prescription medication in a massage;
3 and to amend and reenact subsection 1 of section 43-25-05, subsection 2 of section 43-25-07,
4 subsections 2 and 4 of section 43-25-09, section 43-25-14, and subsection 1 of section
5 43-25-18 of the North Dakota Century Code, relating to regulations of the practice of massage
6 therapy.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 1 of section 43-25-05 of the North Dakota Century
9 Code is amended and reenacted as follows:

- 10 1. The governor shall appoint a board of massage therapy, to consist of five members.
- 11 a. Three members of the board must be massage therapists who are licensed in
12 good standing in this state and ~~annually work at least five hundred hours~~
13 ~~practicing massage in this state and have done so~~ for at least the previous three
14 years. These members must be appointed for terms of three years, staggered so
15 that the term of one member expires each year.
- 16 b. One member of the board must be a consumer member. To qualify as a
17 consumer member an individual may not be or have been a massage therapist,
18 may not have an immediate family member who is a massage therapist, may not
19 be an owner of or have any affiliation with a massage school, may not be a
20 current or past member of any other health care licensing entity, may not have a
21 fiduciary obligation to a facility rendering health care services, may not have a
22 financial interest in the rendering of health care services, and may not have a
23 direct and substantial financial interest in massage therapy. This member must

- 1 be appointed for a two-year term, staggered so that the term expires with a
2 licensed board member but not with the instructor board member.
- 3 c. One member of the board must be a current or former massage therapy
4 instructor of a massage therapy program that meets the standards set by the
5 board. This member must be appointed for a term of two years, staggered so that
6 the term expires with a licensed board member but not with the consumer board
7 member.
- 8 d. Each member of the board holds office until that member's successor is
9 appointed and qualified. Any member appointed to a term beginning after
10 June 30, 2013, may only serve for a total of ~~six~~two consecutive ~~years~~full terms,
11 after which that member may not be reappointed unless a period of three years
12 has passed since that member last served on the board.

13 **SECTION 2. AMENDMENT.** Subsection 2 of section 43-25-07 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 2. ~~Any applicant failing to obtain licensure within one year of the initial license or~~
16 ~~relicense application is entitled to reapply within six months after notification that the~~
17 ~~application was rejected, upon payment of a fee of fifty dollars or a lesser amount~~
18 ~~established by the board. Two applications exhaust the privilege under the original~~
19 ~~application.~~An applicant shall complete an application within six months of initial filing.
20 If the applicant does not complete the application within six months, the board may
21 destroy the application and any supporting records. The application fee provided for in
22 section 43-25-08 is not eligible for refund. The board may extend the six month
23 completion deadline for an applicant providing proof of medical or other hardship
24 rendering the applicant unable to meet the deadline.

25 **SECTION 3. AMENDMENT.** Subsections 2 and 4 of section 43-25-09 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 2. Except as otherwise provided under this subsection, twenty-four hours of continuing
28 education, or equivalent college credits relating to massage , submitted every two
29 years is required for renewal of the license. Of the twenty-four hours, twelve hours
30 must be classroom, hands-on hours. For the first renewal after becoming licensed in
31 this state, a minimum of three hours of the required twenty-four hours must be ethics

1 education. If an applicant for renewal is in good standing and has been ~~actively-~~
2 ~~practicing massage~~ therapist for the fifteen years immediately preceding the renewal,
3 six hours of continuing education, or equivalent college credits relating to massage,
4 submitted every two years is required for renewal of the license. If an applicant for
5 renewal is in good standing and has been ~~actively practicing massage~~ therapist for
6 the twenty-five years immediately preceding the renewal, three hours of continuing
7 education, or equivalent college credits relating to practice of massage, submitted
8 every two years is required for renewal of the license. The board may accept
9 continuing education attained by remote means. No more than ten hours of a
10 licensee's renewal hours may be by remote means. To qualify as continuing
11 education, the remote education must be board-approved for content and suitability as
12 defined in this chapter.

13 a. Licensees with odd-numbered licenses shall report required continuing education
14 on or before February twenty-eighth of each odd-numbered year and pay a
15 required renewal fee of two hundred dollars or a lesser amount established by
16 the board.

17 b. Licensees with even-numbered licenses shall report required continuing
18 education on or before February twenty-eighth of each even-numbered year and
19 pay a required renewal fee of two hundred dollars or a lesser amount established
20 by the board.

21 c. Licensed individuals during their initial licensure period are not required to report
22 hours of continuing education. Thereafter, the licensees shall report continuing
23 education pursuant to subdivisions a and b.

24 d. The board may grant an individual waiver based on health issues or other good
25 cause deemed sufficient by the board.

26 4. A holder of an expired license may within two years from the date of its expiration have
27 the license renewed upon payment of the required renewal fee and a penalty fee of
28 fifty dollars. The board may require a new certificate of physical examination and
29 evidence of completion of any required continued educational hours.

30 **SECTION 4. AMENDMENT.** Section 43-25-14 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-25-14. Compensation of board members - Clerks.**

2 The board members are entitled to receive compensation in an amount to be established by
3 rule not to exceed one hundred fifty dollars per day or prorated for partial days the member is
4 actually engaged in the performance of other meetings and official duties and payment for
5 mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

6 **SECTION 5. AMENDMENT.** Subsection 1 of section 43-25-18 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 1. Any individual who has been duly licensed in another state, territory, or jurisdiction of
9 the United States, to practice massage, may upon paying a fee of one hundred fifty
10 dollars or a lesser fee set by the board be granted a license to practice in this state
11 without being required to take an examination, if the applicant provides evidence
12 satisfactory to the board the applicant:

- 13 a. Is licensed in good standing in any other state, territory, or jurisdiction of the
14 United States;
15 b. ~~Actively practiced~~Was licensed for at least two of the last three years;
16 c. Graduated from a school of massage or massage therapy program approved by
17 the board which may be proven by presentation of a diploma or credentials;
18 d. Passed an examination acceptable to the board;
19 e. A massage license granted to the applicant in any other state, territory, or
20 jurisdiction is not subject to suspension, revocation, or otherwise restricted in any
21 manner for disciplinary purposes; and

22 **SECTION 6.** A new section to chapter 43-25 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Prescriptions.**

25 In performing massage, a massage therapist may not use, apply, or dispense any
26 medication or device that requires a prescription, including any usable marijuana authorized
27 under chapter 19-24.1.