

(Current through the 2019 Extra Session of the General Assembly All changes authorized by the Code Commission will be incorporated by July 8, 2019.)

**TITLE 43. PROFESSIONS AND BUSINESSES**

**CHAPTER 24A. MASSAGE THERAPY PRACTICE**

**ARTICLE 1. GENERAL PROVISIONS – GEORGIA MASSAGE THERAPY PRACTICE ACT**

**O.C.G.A. TITLE 43 Chapter 24A Article 1**

**§ 43-24A-1. Short title**

This chapter shall be known and may be cited as the "Georgia Massage Therapy Practice Act."

**HISTORY:** Code 1981, § 43-24A-1, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

**§ 43-24A-2. Legislative findings and intent**

The General Assembly acknowledges that the practice of massage therapy is a therapeutic health care service delivered by health care professionals that affects the public health, safety, and welfare of Georgians. Massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and function of the tissue being treated and the total function of the body. Massage is therapeutic, and regulations are necessary to protect the public from unqualified practitioners. It is in the interest of the public to set standards of qualifications, education, training, and experience for those who seek to practice massage therapy; to promote high standards of professional performance for those licensed to practice massage therapy; and to protect the public from unprofessional conduct by persons and entities licensed to practice or teach massage therapy.

**HISTORY:** Code 1981, § 43-24A-2, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

**§ 43-24A-3. Definitions**

As used in this chapter, the term:

(1) "Advertise" means, but is not limited to, the issuing of or causing to be distributed any card, sign, 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) "Applicant" means any person seeking a license or renewal under this chapter.

(3) "Board" means the Georgia Board of Massage Therapy established by this chapter.

(4) "Board recognized massage therapy educational program" means an educational program located within or outside the State of Georgia that receives compensation for training two or more persons in massage therapy or its modalities, that has submitted an application and fee, and which meets the standards for training and curriculum as set out by the board in its rules, including, but not limited to, standards for training and curriculum which are consistent with:

(A) The Nonpublic Postsecondary Education Commission as provided in Code Section 20-3-250.4;

(B) A postsecondary institution of the Technical College System of Georgia that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or

(C) A postsecondary institution that is accredited by an accrediting agency recognized by the United States Department of Education and that is authorized or approved by a professional licensing board, department, or agency in another state, jurisdiction, or territory whose standards have been determined by the board to be equivalent to the Nonpublic Postsecondary Education Commission.

(5) "Entity" means the owner or operator of a business where massage therapy for compensation is performed.

(6) "License" means a valid and current certificate of registration issued by the board pursuant to this chapter to practice massage therapy.

(7) "Licensee" means any person holding a license.

(8) "Massage therapist" means a person licensed under this chapter as a massage therapist who administers or teaches massage or massage therapy for compensation.

(9) "Massage therapy" or "massage" means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. Such term includes complementary methods, including without limitation cupping therapy, taping techniques, the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical

preparations and the use of commercially available electromechanical devices which do not require the use of transcutaneous electrodes and which mimic or enhance the actions possible by the hands; the term also includes determining whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate. Such term shall not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal modalities.

(10) "Massage therapy business" means an entity where the practice of or engagement in massage therapy is performed by a licensed massage therapist.

(11) "Person" means a natural person only.

(12) "Provisionally permitted massage therapist" means a person issued a provisional permit under this chapter.

**HISTORY:** Code 1981, § 43-24A-3, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 1/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-4. The Georgia Board of Massage Therapy; creation; members; terms; reimbursement

(a) There is created the Georgia Board of Massage Therapy which shall consist of five members. The board shall be assigned to the Office of the Secretary of State for administrative purposes and shall be under the jurisdiction of the division director and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable.

(b) The Governor shall appoint, subject to confirmation by the Senate, all members of the board for initial terms of office beginning July 1, 2005. The Governor shall appoint two initial members of the board to serve for terms of two years and three initial members of the board, including the public member, to serve for terms of four years. After the initial terms specified in this subsection, members of the board shall take office on the first day of July immediately following the expired term of that office and shall serve for a term of four years and until their successors are appointed and qualified. Any person appointed to the board when the Senate is not in session may serve on the board without Senate confirmation until the Senate acts on that appointment. No member shall serve on the board for more than two full consecutive terms. Any vacancy due to death, resignation, removal, or otherwise shall be filled for the remainder of the unexpired term in the same manner as regular appointments.

(c) All members of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(d) An appointee to the board shall qualify by taking an oath of office within 15 days from the date of his or her appointment. On presentation of the oath, the Secretary of State shall issue a

commission to each appointee as evidence of his or her authority to act as a member of the board.

**HISTORY:** Code 1981, § 43-24A-4, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-5. Qualifications of board members; removal

(a) (1) There shall be four professional members of the board who shall:

(A) Be citizens of the United States and residents of this state for at least three years prior to the date of appointment;

(B) Have been engaged in massage therapy practice for compensation for at least five years immediately preceding their appointment; and

(C) Be licensed under this chapter.

(2) No more than one professional member of the board may be an owner of or affiliated with any massage therapy school.

(b) There shall be one consumer member of the board who shall be appointed by the Governor from the public at large, shall be a citizen of the United States and resident of this state, and shall be a person to whom neither this state nor any other state or jurisdiction or organization has ever issued a certificate, registration, license, or permit to engage in the practice of massage therapy nor be an owner of or affiliated with any massage therapy school or massage therapy business.

(c) The Governor, after notice and opportunity for hearing, may remove any member of the board for incompetence, neglect of duty, unprofessional conduct, conviction of a felony, failure to meet the qualifications of this chapter, or committing any act prohibited by this chapter.

**HISTORY:** Code 1981, § 43-24A-5, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-6. Meetings of the board; officers and committees

The board shall meet at least once each year at a time fixed by the board. At its annual meeting, the board shall elect from its members a chairperson, vice chairperson, and any other officers as deemed necessary who shall hold office for a term of one year. Additionally, the board may appoint such committees as it considers necessary to fulfill its duties. In addition to its annual meeting, the board may hold additional meetings at the call of the chairperson or at the request of any two members of the board or as approved by the division director.

**HISTORY:** Code 1981, § 43-24A-6, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

## § 43-24A-7. Powers of the board

(a)

(1) On and after July 1, 2019, the Georgia Board of Massage Therapy shall regulate the practice of massage therapy in this state. The board shall promulgate rules and regulations governing the practice of massage therapy and massage therapy educational programs pursuant to this chapter. Such rules and regulations shall be adopted no later than July 1, 2020.

(2) Any person who holds a license as a massage therapist issued under this chapter as its provisions existed on June 30, 2019, shall not be required to undergo recertification under this chapter but shall otherwise be subject to all applicable provisions of this chapter effective on and after July 1, 2019.

(b) The board shall have the power to:

(1) Examine and determine the qualifications and fitness of applicants for licenses to practice massage therapy in this state;

(2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage therapy in this state or otherwise discipline licensed massage therapists;

(3) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining persons or entities acting in violation of this chapter;

(4) Upon reasonable notice, request on-site inspections of the facility, equipment, policies, and practices of a massage therapy business or board recognized massage therapy educational program by appropriate inspectors in the Office of the Secretary of State for the purpose of determining compliance with the standards established pursuant to this chapter;

(5) Hold hearings on all matters properly brought before the board and, in conjunction therewith, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may designate one or more of its members as its hearing officer;

(6) Adopt, revise, and enforce rules concerning advertising by licensees including, but not limited to, rules to prohibit false, misleading, or deceptive practices;

(7) Periodically evaluate board recognized massage therapy educational programs and license such programs that meet the board's requirements;

(8) Develop and enforce standards for continuing education courses required of licensed massage therapists which may include courses in massage therapy or any of the modalities described in paragraphs (5) through (8) of subsection (a) of Code Section 43-24A-19;

(9) Develop and enforce reasonable and uniform standards for massage therapy educational programs and massage therapy practice;

(10) Deny or withdraw recognition of noncompliant massage therapy educational programs that do not meet standards established pursuant to this chapter;

(11) Appoint standing or ad hoc committees as necessary to inform and make recommendations to the board about issues and concerns of the massage therapy profession and to facilitate communication amongst the board, licensees under this chapter, and the community, which may include nonmembers of the board;

(12) Collect and publish data regarding existing massage therapy resources in Georgia without violation of any state or federal privacy laws and coordinate planning for board recognized massage therapy educational programs and practice;

(13) Adopt an official seal; and

(14) Bring proceedings to the courts for the enforcement of this chapter or any rules and regulations promulgated pursuant to this chapter.

(c) In addition to the enumerated powers in subsection (b) of this Code section, the board has the authority to conduct its business pursuant to the provisions of Code Section 43-1-19 which is incorporated herein and made a part of this chapter by specific reference.

**HISTORY:** Code 1981, § 43-24A-7, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 2/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-8. Licensure of massage therapists; application and requirements

(a) No person may practice massage therapy in this state who is not a licensed massage therapist or the holder of a valid provisional permit issued by the division director pursuant to this chapter.

(b) Any applicant for a license as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

(1) The applicant is at least 18 years of age;

(2) The applicant has a high school diploma or its recognized equivalent;

(3) The applicant is a citizen of the United States or a permanent resident of the United States;

(4) The applicant is of good moral character. For purposes of this paragraph, "good moral character" means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;

(5) The applicant has satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by examination agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. Such applicant shall be responsible for all fees associated with the performance of such background check;

(6) The applicant has completed successfully a board recognized massage therapy educational program consisting of a minimum of 500 hours of course and clinical work;

(7) The applicant has passed satisfactorily the National Certification Examination for Therapeutic Massage and Bodywork, the Massage and Bodywork Licensing Exam administered by the Federation of State Massage Therapy Boards, an equivalent test approved by the board, or an examination administered by another state, territory, or jurisdiction whose license requirements meet or exceed those of this state; and

(8) The applicant has and agrees to maintain continuously during the term of licensure liability insurance coverage for bodily injury, property damage, and professional liability in coverages and amounts of not less than \$1 million per occurrence, with not less than a minimum annual aggregate of \$3 million for all occurrences, as determined by the board.

**HISTORY:** Code 1981, § 43-24A-8, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2012, p. 1032, § 1/SB 143; Ga. L. 2019, p. hb0242, § 1/HB 242.

### § 43-24A-9. Provisional permits

(a) A provisional permit to practice as a provisionally permitted massage therapist shall, upon proper application, be issued for a six-month period to an applicant who meets the following criteria:

(1) Holds and maintains a valid license as a massage therapist in another state;

(2) Is not a resident of this state as confirmed in a secure and verifiable document, as defined in Code Section 50-36-2;

(3) Has not had a license or permit to practice as a massage therapist voided, revoked, suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and

(4) Has not been convicted of a felony in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to such charge or the affording of first offender treatment to any such charge in the same manner as provided in paragraph (4) of subsection (a) of Code Section 43-1-19.

(b) A provisional permit shall require the applicant to work under the supervision of a licensed massage therapist in good standing with the board. If an applicant has met the requirements of subsection (a) of this Code section and submits the applicable license fee, the applicant shall be granted a provisional permit to practice massage therapy in this state. Upon receipt of such application and fee, a provisional permit shall be administratively issued.

(c) A provisional permit may be voided if the board determines that the person holding such permit no longer meets one or more of the criteria set forth in subsection (a) of this Code section.

(d) A provisional permit issued pursuant to subsection (a) of this Code section shall have the same force and effect as a permanent license until the time of its expiration.

(e) A provisional permit issued pursuant to subsection (a) of this Code section shall expire on the same date as a license issued under this chapter to a holder of a provisional permit who has passed the examination pursuant to Code Section 43-24A-8.

**HISTORY:** Code 1981, § 43-24A-9, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2012, p. 1032, § 2/SB 143; Ga. L. 2013, p. 830, § 4A/HB 315; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-10. Applications under oath

The board may require that all applications be made under oath.

**HISTORY:** Code 1981, § 43-24A-10, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-11. Licensing examinations

(a) Examinations shall be administered to qualified applicants for massage therapy licensure at least twice each calendar year.

(b) Applicants may obtain their examination scores in accordance with such rules and regulations as the board may establish.

**HISTORY:** Code 1981, § 43-24A-11, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-12. License by reciprocity

**HISTORY:** Reserved. Repealed by Ga. L. 2008, p. 1112, § 16, effective July 1, 2008.

#### § 43-24A-13. License by endorsement

(a) Any applicant for a license by endorsement as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

(1) The applicant is at least 18 years of age;

(2) The applicant is of good moral character. For purposes of this paragraph, "good moral character" means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;

(3) The applicant has satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by endorsement agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check; and

(4) The applicant is currently licensed as a massage therapist in another jurisdiction, state, or territory of the United States or foreign country which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter.

(b) The board may establish by rule procedures for an applicant for licensure by endorsement to supplement his or her application to satisfy any standards for licensure pursuant to this chapter that are greater than those of another state, territory, or jurisdiction.

**HISTORY:** Code 1981, § 43-24A-13, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2008, p. 1112, § 17/HB 1055; Ga. L. 2012, p. 1032, § 3/SB 143; Ga. L. 2019, p. hb0242, § 1/HB 242.

**§ 43-24A-14. Display of the license certificate; expiration and renewal of licenses; liability insurance coverage; change of address; inactive status**

(a) The licensee shall display the license certificate or a photocopy thereof in an appropriate and public manner at each location at which he or she practices.

(b) All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the division director prior to the expiration date, accompanied by the biennial renewal fee prescribed by the board and certifying that all current requirements of continuing education as determined by the board have been fulfilled. The board shall provide for penalty fees for late registration. The failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of said license, subject to reinstatement only after application and payment of the prescribed reinstatement fee within the time period established by the division director, provided that the applicant meets such requirements as the board may establish by rule.

(c) A licensee shall provide evidence of current liability insurance coverage as required in Code Section 43-24A-8 upon request by the board at any time during such licensee's term of licensure.

(d) The licensee shall inform the board of any change of address within 30 days.

(e) Each person licensed under this chapter is responsible for renewing his or her license before the expiration date.

(f) Under procedures and conditions established by the board, a licensee may request that his or her license be declared inactive. The licensee may apply for active status at any time and upon meeting the conditions set forth by the board shall be declared active.

**HISTORY:** Code 1981, § 43-24A-14, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

**§ 43-24A-15. Unlawful acts**

(a) It shall be a violation of this chapter for any person, entity, or board recognized massage therapy educational program to advertise:

(1) Massage therapy services or to advertise the offering of massage therapy services unless such services are provided by a person who holds a valid license under this chapter; or

(2) Massage therapy services through any form of media or representation through the use of pictorial representations unless the persons depicted in such representations are attired and posed in a manner so as to avoid appealing to the prurient interest.

(b) It shall be a violation of this chapter for any person to advertise:

(1) As a massage therapist unless the person holds a valid license under this chapter in the classification so advertised; or

(2) Massage therapy services combined with escort or dating services or adult entertainment.

(c) It shall be a violation of this chapter for a person or entity, or the employees, agents, or representatives of such person or entity, to practice massage therapy or to use in connection with such person's or entity's name or business activity the terms "massage," "massage therapy," "massage therapist," "massage practitioner," or the letters "M.T.," "L.M.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless such massage therapy is provided by a massage therapist licensed and practicing in accordance with this chapter.

(d) It shall be a violation of this chapter for any entity to:

(1) Advertise the offering of massage therapy services combined with escort or dating services, adult entertainment, or illegal acts relating to sex related crimes; or

(2) Employ unlicensed massage therapists to perform massage therapy.

(e) It shall be a violation of this chapter for any person to practice massage therapy without holding a current or provisional license as a massage therapist in accordance with subsection (a) of Code Section 43-24A-8.

(f) It shall be a violation of this chapter for any person or entity, or the employees, agents, or representatives of such person or entity, to render or offer massage therapy services for compensation unless such massage therapy is provided by a licensed massage therapist.

**HISTORY:** Code 1981, § 43-24A-15, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 3/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

§ 43-24A-16. Practice of massage therapy without a license; injunctions

The practice of massage therapy is declared to be an activity that affects the public health, safety, and welfare of Georgians. Such practice by a person who is not licensed to practice massage therapy in this state is declared to be a public nuisance, harmful to the public health, safety, and welfare. Any citizen of this state, the board, or the appropriate prosecuting attorney of a jurisdiction where such practice is carried on by such unlicensed person may, on behalf of the public, bring an action to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides or works. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law or to allege or prove any special injury.

**HISTORY:** Code 1981, § 43-24A-16, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

### § 43-24A-17. Disciplinary action

(a) The board may take any one or more of the following actions against a person, entity, or board recognized massage therapy educational program found by the board to have committed a violation of this chapter:

- (1) Reprimand or place the licensee on probation;
- (2) Revoke or suspend the license or deny the issuance or renewal of a license;
- (3) Impose an administrative fine not to exceed \$500.00 for each violation; and
- (4) Assess costs against the violator for expenses relating to the investigation and administrative action.

(b) The board may assess collection costs and interest for the collection of fines imposed under this chapter against any person, entity, or board recognized massage therapy educational program that fails to pay a fine as directed by the board.

**HISTORY:** Code 1981, § 43-24A-17, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 4/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

### § 43-24A-18. Administrative procedures

Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

**HISTORY:** Code 1981, § 43-24A-18, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

## § 43-24A-19. Exceptions

(a) Nothing in this chapter shall be construed to affect, restrict, or prevent the practice, services, or activities of:

(1) A person licensed, registered, or certified under any other chapter or article under Title 43 while engaged in the professional or trade practices properly conducted under authority of such other licensing laws, provided that such person shall not use the title of massage therapist;

(2) A person pursuing a course of study leading to a degree or certificate as a massage therapist in a board recognized massage therapy educational program if such person is designated by title indicating student status and is fulfilling uncompensated work experiences required for the attainment of the degree or certificate;

(3) A nonresident person rendering massage therapy up to 60 days during a 12 month period for treatment of a temporary sojourner only, provided that such nonresident massage therapist holds a license, registration, or certification from another state, jurisdiction, or country if the requirements as determined by the board for licensure, registration, or certification are substantially equal to the requirements contained in this chapter or provided that such nonresident massage therapist is currently nationally certified in therapeutic massage and bodywork;

(4) A person duly licensed, registered, or certified in another jurisdiction, state, territory, or a foreign country when incidentally in this state to provide service as part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event with which he or she comes into the state;

(5) A person who restricts his or her practice to the manipulation of the soft tissue of the human body to hands, feet, or ears who does not have the client disrobe and does not hold himself or herself out as a massage therapist;

(6) A person 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 with established standards and ethics, provided that his or her services are not designated or implied to be massage or massage therapy;

(7) A person who uses touch and movement education to effect change in the structure of the body while engaged in the practice of structural integration, provided that he or she is a member of, or whose training would qualify for membership in, the International Association of Structural Integrators and provided that his or her services are not designated or implied to be massage or massage therapy;

(8) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi meridians, also known as channels of energy, of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that his or her services are not designated or implied to be massage or massage therapy;

(9) A person who was engaged in massage therapy practice prior to July 1, 2005; provided, however, that the prohibition of subsection (c) of Code Section 43-24A-15 shall apply to such a person on and after July 1, 2007; or

(10) A person licensed under other chapters of this title providing cupping therapy or taping techniques that are authorized within the scope of practice of such person.

(b) Nothing in this chapter shall prohibit a licensed massage therapist from practicing any of the modalities described in paragraphs (5) through (8) of subsection (a) of this Code section.

**HISTORY:** Code 1981, § 43-24A-19, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-20. Continuing education requirements

(a) The board shall establish continuing education requirements not to exceed 25 hours per biennium in massage therapy, its complementary methods as defined by the board, or any of the modalities described in paragraphs (5) through (8) of subsection (a) of Code Section 43-24A-19. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the requirements for continuing education programs or courses.

(b) Continuing education requirements or credits used for license renewal shall be approved by the board.

**HISTORY:** Code 1981, § 43-24A-20, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-21. Proceedings for a restraining order, injunction, or writ of mandamus

As cumulative to any other remedy or criminal prosecution, the board may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person, entity, or board recognized massage therapy educational program that is or has been violating any of the provisions of this chapter or the lawful rules or orders of the board.

**HISTORY:** Code 1981, § 43-24A-21, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

## § 43-24A-22. Local regulation

(a) This chapter shall not be construed to prohibit a county or municipality from enacting any regulation of persons not licensed pursuant to this chapter. Any place of business where massage therapy for compensation is performed shall also be subject to any regulation by local governing authorities which elect to enact regulations in accordance with this chapter.

(b) No provision of any ordinance enacted by a county, municipality, or other local jurisdiction that requires an individual professional license by such county, municipality, or local jurisdiction of a massage therapist may be enforced against a person who is issued a license by the board under this chapter.

**HISTORY:** Code 1981, § 43-24A-22, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 5/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

## § 43-24A-23. Taxation as a health care activity

Notwithstanding any provision of law to the contrary, the act of a duly licensed massage therapist in performing a massage shall be deemed to be the act of a health care professional and shall not be subject to the collection of any form of state or local taxation regulations or fees not also imposed on other licensed health care professionals.

**HISTORY:** Code 1981, § 43-24A-23, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2019, p. hb0242, § 1/HB 242.

## § 43-24A-24. Fines and punishments for violations

(a) Any person, entity, or board recognized massage therapy educational program that acts in violation of Code Section 43-24A-15, upon conviction thereof, shall be punished as provided in this Code section.

(b) Each act of unlawful practice under this Code section shall constitute a distinct and separate offense.

(c) Upon being convicted a first time under this Code section, such person, entity, or board recognized massage therapy educational program shall be guilty of and shall be punished as for a misdemeanor for each offense which is punishable by a fine of not less than \$500.00 nor more than \$5,000.00. Upon being convicted a second time under this Code section, such person, entity, or board recognized massage therapy educational program shall be guilty of and shall be punished as for a misdemeanor of a high and aggravated nature punishable by a fine of not less than \$5,000.00 nor more than \$10,000.00, or imprisonment for not less than six months nor more than one year, at the discretion of the court. Upon being convicted a third or

subsequent time under this Code section, such person, entity, or board recognized massage therapy educational program shall be guilty of a felony and shall be punished by a fine of not more than \$25,000.00 for each offense, imprisonment for not less than one nor more than five years, or both, and shall be precluded from owning, operating, or working for or with an entity that offers massage therapy.

**HISTORY:** Code 1981, § 43-24A-24, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2010, p. 401, § 6/SB 364; Ga. L. 2019, p. hb0242, § 1/HB 242.

(Current through the 2019 Extra Session of the General Assembly All changes authorized by the Code Commission will be incorporated by July 8, 2019.)

**TITLE 43. PROFESSIONS AND BUSINESSES**  
**CHAPTER 24A. MASSAGE THERAPY PRACTICE**  
**ARTICLE 2. LOCAL REGULATION**  
**O.C.G.A. TITLE 43 Chapter 24A Article 2**

**§ 43-24A-30. Licensing or regulation of massage therapy businesses; limitation on naming and labels**

(a) A county, municipality, or other local jurisdiction may by ordinance or resolution license or regulate massage therapy businesses. Any ordinance or resolution adopted pursuant to this subsection may include, but is not limited to, at least the following requirements on such businesses:

- (1) Current liability insurance coverage for bodily injury, property damage, and professional liability for the massage therapy business;
- (2) Compliance with state and local fire and safety requirements;
- (3) Provision for extermination of vermin, insects, termites, and rodents in any property or location used by the massage therapy business;
- (4) Maintenance of equipment in a safe and sanitary condition;
- (5) Adequate toilet and lavatory facilities with running water, toilet tissue, soap dispenser with soap or other hand-cleansing materials, sanitary towels or other hand drying devices, waste receptacles, and adequate lighting and ventilation sufficient to remove objectionable odors on the premises of the business or entity or within reasonable proximity to such business or entity when it is located in a space or facilities also used by other businesses;
- (6) Adequate and sanitary shower facilities if the massage therapy business maintains a whirlpool bath, sauna, hot tub, spa, steam cabinet, or steam room, including soap and sanitary cloth towels and adequate lighting and ventilation;

(7) Prequalification processes, state licensure checks, interviews, or other procedures prior to approval of application for a business license for a person or entity proposing to offer massage therapy services or for a massage therapy business;

(8) Requirement that a licensed massage therapist is present on the premises of a massage therapy business at any time when massage therapy is being performed for a client of the massage therapy business; and

(9) Evidence of license to practice massage therapy.

(b) A county, municipality, or other local jurisdiction may limit or prohibit a massage therapy business from using labels or names including the words "spa establishment," "massage parlor," "personal service," or "adult entertainment."

**HISTORY:** Code 1981, § 43-24A-30, enacted by Ga. L. 2019, p. hb0242, § 1/HB 242.

### § 43-24A-31. Prohibited elements of ordinance or regulation; no prohibition on impeding practice

(a) A county, municipality, or other local jurisdiction that licenses or regulates massage therapy businesses may not adopt any ordinance or regulation that includes any of the following:

(1) Conditions or requirements required as of July 1, 2019, for licensure as a massage therapist under this chapter, including, but not limited to, criminal background checks, education, and training; provided, however, that a county, municipality, or other local jurisdiction may require a criminal background check of any employee, independent contractor, or other person working on the premises of a massage therapy business who is not a licensed massage therapist; provided, further, that a county, municipality, or other local jurisdiction may require evidence of licensure pursuant to paragraph (9) of subsection (a) of Code Section 43-24A-30;

(2) Limitations on the location of a massage therapy business relating to its proximity to other massage therapy businesses that directly or indirectly prohibit massage therapy businesses from locating in the jurisdiction;

(3) Prohibition of off-premises or mobile services by a licensed massage therapist;

(4) Limitations on the operation of the massage therapy business from engaging licensed massage therapists as contractors of such business or lessees of the premises of the massage therapy business for the performance of massage therapy; or

(5) Conditions or requirements that are in any manner inconsistent with the federal Health Insurance Portability and Accountability Act of 1996.

(b) A county, municipality, or other local jurisdiction shall not impose any requirements relating to massage therapy for the purpose of impeding the lawful practice of massage therapy pursuant to this chapter.

**HISTORY:** Code 1981, § 43-24A-31, enacted by Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-32. Regulation and licensing of other businesses

Nothing in this article shall prohibit a county, municipality, or other local jurisdiction from:

- (1) Licensing or regulating other businesses that are not massage therapy businesses;
- (2) Enacting advertising restrictions on massage therapy businesses to protect the public; provided, however, that this shall not include any restrictions on the content of advertising beyond what is included in Code Section 43-24A-15;
- (3) Inspecting massage therapy businesses; provided, however, that this shall not be construed to authorize the review of client records protected by the federal Health Insurance Portability and Accountability Act of 1996; or
- (4) Prohibiting and prosecuting illicit, immoral, prurient, or illegal activities or sexual activity in the operation or on the premises of a massage therapy business.

**HISTORY:** Code 1981, § 43-24A-32, enacted by Ga. L. 2019, p. hb0242, § 1/HB 242.

#### § 43-24A-33. Enforcement by prosecuting attorney; issuance of injunctions

- (a) The appropriate prosecuting attorney may cause appropriate proceedings to be commenced in order to enforce the provisions of this article.
- (b) The board, in addition to the remedies set forth in this chapter, may bring an action in a court of competent jurisdiction to enjoin violations of this article. Such injunction may be issued by such court notwithstanding the existence of an adequate remedy at law.

**HISTORY:** Code 1981, § 43-24A-33, enacted by Ga. L. 2019, p. hb0242, § 1/HB 242.