

1 A bill to be entitled
2 An act relating to massage therapy; renaming ch. 480,
3 F.S., as "Massage Therapy Practice"; amending s.
4 480.031, F.S.; conforming a provision to changes made
5 by the act; amending s. 480.032, F.S.; revising the
6 purpose of ch. 480, F.S.; amending s. 480.033, F.S.;
7 revising terms and definitions; amending s. 480.041,
8 F.S.; revising requirements for licensure as a massage
9 therapist; conforming provisions to changes made by
10 the act; providing applicability for persons who were
11 issued a license as a massage apprentice before a
12 specified date; repealing s. 480.042, F.S., relating
13 to examinations; amending ss. 477.013, 477.0135,
14 480.034, 480.035, 480.043, 480.046, 480.0465, 480.047,
15 480.052, 480.0535, 627.6407, 627.6619, 627.736, and
16 641.31 F.S.; conforming provisions to changes made by
17 the act; making technical changes; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Chapter 480, Florida Statutes, entitled
23 "Massage Practice," is renamed "Massage Therapy Practice."

24 Section 2. Section 480.031, Florida Statutes, is amended
25 to read:

HB 1341

2020

26 480.031 Short title.—This act ~~shall be known and~~ may be
27 cited as the "Massage Therapy Practice Act."

28 Section 3. Section 480.032, Florida Statutes, is amended
29 to read:

30 480.032 Purpose.—The Legislature recognizes that the
31 practice of massage therapy is potentially dangerous to the
32 public in that massage therapists must have a knowledge of
33 anatomy and physiology and an understanding of the relationship
34 between the structure and the function of the tissues being
35 treated and the total function of the body. Massage therapy is a
36 therapeutic health care practice, and regulations are necessary
37 to protect the public from unqualified practitioners. It is
38 therefore deemed necessary in the interest of public health,
39 safety, and welfare to regulate the practice of massage therapy
40 in this state; however, restrictions shall be imposed to the
41 extent necessary to protect the public from significant and
42 discernible danger to health and yet not in such a manner which
43 will unreasonably affect the competitive market. Further,
44 consumer protection for both health and economic matters shall
45 be afforded the public through legal remedies provided for in
46 this act.

47 Section 4. Subsections (3), (4), (5), (7), and (9) of
48 section 480.033, Florida Statutes, are amended to read:

49 480.033 Definitions.—As used in this act:

50 (3) "Massage therapy" means the manipulation of the soft

51 tissues of the human body with the hand, foot, knee, arm, or
52 elbow, regardless of whether ~~or not~~ such manipulation is aided
53 by hydrotherapy, including colonic irrigation, or thermal
54 therapy; any electrical or mechanical device; or the application
55 to the human body of a chemical or herbal preparation, an over-
56 the-counter topical agent, or a topical agent prescribed by a
57 health care practitioner applied in accordance with board rule.

58 (4) "Massage therapist" means a person licensed as
59 required by this act, who administers massage therapy for
60 compensation and assesses or evaluates persons for massage
61 therapy treatment.

62 (5) "Apprentice" means a person approved by the board to
63 study colon irrigation ~~massage~~ under the instruction of a
64 licensed massage therapist practicing colon irrigation.

65 (7) "Establishment" or "massage establishment" means a
66 site or premises, or portion thereof, wherein a massage
67 therapist practices massage therapy.

68 (9) "Board-approved massage therapy school" means a
69 facility that meets minimum standards for training and
70 curriculum as determined by rule of the board and that is
71 licensed by the Department of Education pursuant to chapter 1005
72 or the equivalent licensing authority of another state or is
73 within the public school system of this state or a college or
74 university that is eligible to participate in the William L.
75 Boyd, IV, Effective Access to Student Education Grant Program.

76 Section 5. Subsections (1), (2), and (4) of section
77 480.041, Florida Statutes, are amended, and subsection (8) is
78 added to that section, to read:

79 480.041 Massage therapists; qualifications; licensure;
80 endorsement.—

81 (1) Any person is qualified for licensure as a massage
82 therapist under this act who:

83 (a) Is at least 18 years of age or has received a high
84 school diploma or high school equivalency diploma;

85 (b) Has completed a course of study at a board-approved
86 massage therapy school ~~or has completed an apprenticeship~~
87 ~~program that meets standards adopted by the board;~~ and

88 (c) Has received a passing grade on a national ~~an~~
89 examination designated ~~administered~~ by the board ~~department~~.

90 (2) Every person desiring to be examined for licensure as
91 a massage therapist shall apply to the department in writing
92 upon forms prepared and furnished by the department. Such
93 applicants are ~~shall be~~ subject to ~~the provisions of s.~~

94 ~~480.046(1). Applicants may take an examination administered by~~
95 ~~the department only upon meeting the requirements of this~~
96 ~~section as determined by the board.~~

97 (4) Upon an applicant's passing the examination and paying
98 the initial licensure fee, the department shall issue to the
99 applicant a license, valid until the next scheduled renewal
100 date, to practice massage therapy.

101 (8) A person issued a license as a massage apprentice
 102 before July 1, 2020, may continue that apprenticeship and
 103 perform massage therapy as authorized under that license until
 104 its expiration. After completing his or her apprenticeship and
 105 before July 1, 2022, a massage apprentice may apply to the board
 106 for full licensure and the board must grant the application if
 107 the applicant meets all other applicable licensure requirements.

108 Section 6. Section 480.042, Florida Statutes, is repealed.

109 Section 7. Subsection (13) of section 477.013, Florida
 110 Statutes, is amended to read:

111 477.013 Definitions.—As used in this chapter:

112 (13) "Skin care services" means the treatment of the skin
 113 of the body, other than the head, face, and scalp, by the use of
 114 a sponge, brush, cloth, or similar device to apply or remove a
 115 chemical preparation or other substance, except that chemical
 116 peels may be removed by peeling an applied preparation from the
 117 skin by hand. Skin care services must be performed by a licensed
 118 cosmetologist or facial specialist within a licensed cosmetology
 119 or specialty salon, and such services may not involve massage
 120 therapy, as defined in s. 480.033(3), through manipulation of
 121 the superficial tissue.

122 Section 8. Paragraph (a) of subsection (1) of section
 123 477.0135, Florida Statutes, is amended to read:

124 477.0135 Exemptions.—

125 (1) This chapter does not apply to the following persons

126 when practicing pursuant to their professional or occupational
127 responsibilities and duties:

128 (a) Persons authorized under the laws of this state to
129 practice medicine, surgery, osteopathic medicine, chiropractic
130 medicine, massage therapy, naturopathy, or podiatric medicine.

131 Section 9. Subsection (4) of section 480.034, Florida
132 Statutes, is amended to read:

133 480.034 Exemptions.—

134 (4) An exemption granted is effective to the extent that
135 an exempted person's practice or profession overlaps with the
136 practice of massage therapy.

137 Section 10. Subsection (2) of section 480.035, Florida
138 Statutes, is amended to read:

139 480.035 Board of Massage Therapy.—

140 (2) Five members of the board shall be licensed massage
141 therapists and shall have been engaged in the practice of
142 massage therapy for not less than 5 consecutive years prior to
143 the date of appointment to the board. The Governor shall appoint
144 each member for a term of 4 years. Two members of the board
145 shall be laypersons. Each board member shall be a high school
146 graduate or shall have received a high school equivalency
147 diploma. Each board member shall be a citizen of the United
148 States and a resident of this state for not less than 5 years.
149 The appointments are ~~will be~~ subject to confirmation by the
150 Senate.

151 Section 11. Subsection (14) of section 480.043, Florida
152 Statutes, is amended to read:

153 480.043 Massage establishments; requisites; licensure;
154 inspection; human trafficking awareness training and policies.—

155 (14) Except for the requirements of subsection (13), this
156 section does not apply to a physician licensed under chapter
157 457, chapter 458, chapter 459, or chapter 460 who employs a
158 licensed massage therapist to perform massage therapy on the
159 physician's patients at the physician's place of practice. This
160 subsection does not restrict investigations by the department
161 for violations of chapter 456 or this chapter.

162 Section 12. Paragraphs (a), (b), (c), (f), (g), (h), (i),
163 and (o) of subsection (1) of section 480.046, Florida Statutes,
164 are amended to read:

165 480.046 Grounds for disciplinary action by the board.—

166 (1) The following acts constitute grounds for denial of a
167 license or disciplinary action, as specified in s. 456.072(2):

168 (a) Attempting to procure a license to practice massage
169 therapy by bribery or fraudulent misrepresentation.

170 (b) Having a license to practice massage therapy revoked,
171 suspended, or otherwise acted against, including the denial of
172 licensure, by the licensing authority of another state,
173 territory, or country.

174 (c) Being convicted or found guilty, regardless of
175 adjudication, of a crime in any jurisdiction which directly

176 | relates to the practice of massage therapy or to the ability to
177 | practice massage therapy. Any plea of nolo contendere shall be
178 | considered a conviction for purposes of this chapter.

179 | (f) Aiding, assisting, procuring, or advising any
180 | unlicensed person to practice massage therapy contrary to ~~the~~
181 | ~~provisions of~~ this chapter or to department or board ~~a rule of~~
182 | ~~the department or the board~~.

183 | (g) Making deceptive, untrue, or fraudulent
184 | representations in the practice of massage therapy.

185 | (h) Being unable to practice massage therapy with
186 | reasonable skill and safety by reason of illness or use of
187 | alcohol, drugs, narcotics, chemicals, or any other type of
188 | material or as a result of any mental or physical condition. In
189 | enforcing this paragraph, the department ~~shall have~~, upon
190 | probable cause, may ~~authority to~~ compel a massage therapist to
191 | submit to a mental or physical examination by physicians
192 | designated by the department. Failure of a massage therapist to
193 | submit to such examination when so directed, unless the failure
194 | was due to circumstances beyond her or his control, constitutes
195 | ~~shall constitute~~ an admission of the allegations against her or
196 | him, consequent upon which a default and final order may be
197 | entered without the taking of testimony or presentation of
198 | evidence. A massage therapist affected under this paragraph
199 | shall at reasonable intervals be afforded an opportunity to
200 | demonstrate that she or he can resume the competent practice of

HB 1341

2020

201 massage therapy with reasonable skill and safety to clients.

202 (i) Gross or repeated malpractice or the failure to
203 practice massage therapy with that level of care, skill, and
204 treatment which is recognized by a reasonably prudent massage
205 therapist as being acceptable under similar conditions and
206 circumstances.

207 (o) Practicing massage therapy at a site, location, or
208 place which is not duly licensed as a massage establishment,
209 except that a massage therapist, as provided by ~~rules adopted by~~
210 ~~the board~~ rule, may provide massage therapy services, excluding
211 colonic irrigation, at the residence of a client, at the office
212 of the client, at a sports event, at a convention, or at a trade
213 show.

214 Section 13. Section 480.0465, Florida Statutes, is amended
215 to read:

216 480.0465 Advertisement.—Each massage therapist or massage
217 establishment licensed under ~~the provisions of~~ this act shall
218 include the number of the license in any advertisement of
219 massage therapy services appearing in a newspaper, airwave
220 transmission, telephone directory, or other advertising medium.
221 Pending licensure of a new massage establishment pursuant to ~~the~~
222 ~~provisions of~~ s. 480.043(7), the license number of a licensed
223 massage therapist who is an owner or principal officer of the
224 establishment may be used in lieu of the license number for the
225 establishment.

HB 1341

2020

226 Section 14. Paragraphs (a), (b), and (c) of subsection (1)
227 of section 480.047, Florida Statutes, are amended to read:

228 480.047 Penalties.—

229 (1) It is unlawful for any person to:

230 (a) Hold himself or herself out as a massage therapist or
231 to practice massage therapy unless duly licensed under this
232 chapter or unless otherwise specifically exempted from licensure
233 under this chapter.

234 (b) Operate any massage establishment unless it has been
235 duly licensed as provided herein, except that nothing herein
236 shall be construed to prevent the teaching of massage therapy in
237 this state at a board-approved massage therapy school.

238 (c) Permit an employed person to practice massage therapy
239 unless duly licensed as provided herein.

240 Section 15. Section 480.052, Florida Statutes, is amended
241 to read:

242 480.052 Power of county or municipality to regulate
243 massage therapy.—A county or municipality, within its
244 jurisdiction, may regulate persons and establishments licensed
245 under this chapter. Such regulation shall not exceed the powers
246 of the state under this act or be inconsistent with this act.
247 This section shall not be construed to prohibit a county or
248 municipality from enacting any regulation of persons or
249 establishments not licensed pursuant to this act.

250 Section 16. Subsections (1) and (2) of section 480.0535,

251 Florida Statutes, are amended to read:

252 480.0535 Documents required while working in a massage
253 establishment.—

254 (1) In order to provide the department and law enforcement
255 agencies the means to more effectively identify, investigate,
256 and arrest persons engaging in human trafficking, a person
257 employed by a massage establishment and any person performing
258 massage therapy therein must immediately present, upon the
259 request of an investigator of the department or a law
260 enforcement officer, valid government identification while in
261 the establishment. A valid government identification for the
262 purposes of this section is:

263 (a) A valid, unexpired driver license issued by any state,
264 territory, or district of the United States;

265 (b) A valid, unexpired identification card issued by any
266 state, territory, or district of the United States;

267 (c) A valid, unexpired United States passport;

268 (d) A naturalization certificate issued by the United
269 States Department of Homeland Security;

270 (e) A valid, unexpired alien registration receipt card
271 (green card); or

272 (f) A valid, unexpired employment authorization card
273 issued by the United States Department of Homeland Security.

274 (2) A person operating a massage establishment must:

275 (a) Immediately present, upon the request of an

HB 1341

2020

276 investigator of the department or a law enforcement officer:

277 1. Valid government identification while in the
278 establishment.

279 2. A copy of the documentation specified in paragraph
280 (1) (a) for each employee and any person performing massage
281 therapy in the establishment.

282 (b) Ensure that each employee and any person performing
283 massage therapy in the massage establishment is able to
284 immediately present, upon the request of an investigator of the
285 department or a law enforcement officer, valid government
286 identification while in the establishment.

287 Section 17. Section 627.6407, Florida Statutes, is amended
288 to read:

289 627.6407 Massage.—Any policy of health insurance that
290 provides coverage for massage shall also cover the services of
291 persons licensed to practice massage therapy pursuant to chapter
292 480, where the massage therapy, as defined in chapter 480, has
293 been prescribed by a physician licensed under chapter 458,
294 chapter 459, chapter 460, or chapter 461, as being medically
295 necessary and the prescription specifies the number of
296 treatments.

297 Section 18. Section 627.6619, Florida Statutes, is amended
298 to read:

299 627.6619 Massage.—Any policy of health insurance that
300 provides coverage for massage shall also cover the services of

301 persons licensed to practice massage therapy pursuant to chapter
302 480, where the massage therapy, as defined in chapter 480, has
303 been prescribed by a physician licensed under chapter 458,
304 chapter 459, chapter 460, or chapter 461, as being medically
305 necessary and the prescription specifies the number of
306 treatments.

307 Section 19. Paragraph (a) of subsection (1) of section
308 627.736, Florida Statutes, is amended to read:

309 627.736 Required personal injury protection benefits;
310 exclusions; priority; claims.—

311 (1) REQUIRED BENEFITS.—An insurance policy complying with
312 the security requirements of s. 627.733 must provide personal
313 injury protection to the named insured, relatives residing in
314 the same household, persons operating the insured motor vehicle,
315 passengers in the motor vehicle, and other persons struck by the
316 motor vehicle and suffering bodily injury while not an occupant
317 of a self-propelled vehicle, subject to subsection (2) and
318 paragraph (4) (e), to a limit of \$10,000 in medical and
319 disability benefits and \$5,000 in death benefits resulting from
320 bodily injury, sickness, disease, or death arising out of the
321 ownership, maintenance, or use of a motor vehicle as follows:

322 (a) Medical benefits.—Eighty percent of all reasonable
323 expenses for medically necessary medical, surgical, X-ray,
324 dental, and rehabilitative services, including prosthetic
325 devices and medically necessary ambulance, hospital, and nursing

326 services if the individual receives initial services and care
327 pursuant to subparagraph 1. within 14 days after the motor
328 vehicle accident. The medical benefits provide reimbursement
329 only for:

330 1. Initial services and care that are lawfully provided,
331 supervised, ordered, or prescribed by a physician licensed under
332 chapter 458 or chapter 459, a dentist licensed under chapter
333 466, or a chiropractic physician licensed under chapter 460 or
334 that are provided in a hospital or in a facility that owns, or
335 is wholly owned by, a hospital. Initial services and care may
336 also be provided by a person or entity licensed under part III
337 of chapter 401 which provides emergency transportation and
338 treatment.

339 2. Upon referral by a provider described in subparagraph
340 1., followup services and care consistent with the underlying
341 medical diagnosis rendered pursuant to subparagraph 1. which may
342 be provided, supervised, ordered, or prescribed only by a
343 physician licensed under chapter 458 or chapter 459, a
344 chiropractic physician licensed under chapter 460, a dentist
345 licensed under chapter 466, or, to the extent permitted by
346 applicable law and under the supervision of such physician,
347 osteopathic physician, chiropractic physician, or dentist, by a
348 physician assistant licensed under chapter 458 or chapter 459 or
349 an advanced practice registered nurse licensed under chapter
350 464. Followup services and care may also be provided by the

351 following persons or entities:

352 a. A hospital or ambulatory surgical center licensed under
353 chapter 395.

354 b. An entity wholly owned by one or more physicians
355 licensed under chapter 458 or chapter 459, chiropractic
356 physicians licensed under chapter 460, or dentists licensed
357 under chapter 466 or by such practitioners and the spouse,
358 parent, child, or sibling of such practitioners.

359 c. An entity that owns or is wholly owned, directly or
360 indirectly, by a hospital or hospitals.

361 d. A physical therapist licensed under chapter 486, based
362 upon a referral by a provider described in this subparagraph.

363 e. A health care clinic licensed under part X of chapter
364 400 which is accredited by an accrediting organization whose
365 standards incorporate comparable regulations required by this
366 state, or

367 (I) Has a medical director licensed under chapter 458,
368 chapter 459, or chapter 460;

369 (II) Has been continuously licensed for more than 3 years
370 or is a publicly traded corporation that issues securities
371 traded on an exchange registered with the United States
372 Securities and Exchange Commission as a national securities
373 exchange; and

374 (III) Provides at least four of the following medical
375 specialties:

- 376 (A) General medicine.
- 377 (B) Radiography.
- 378 (C) Orthopedic medicine.
- 379 (D) Physical medicine.
- 380 (E) Physical therapy.
- 381 (F) Physical rehabilitation.
- 382 (G) Prescribing or dispensing outpatient prescription
- 383 medication.
- 384 (H) Laboratory services.

385 3. Reimbursement for services and care provided in
 386 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 387 licensed under chapter 458 or chapter 459, a dentist licensed
 388 under chapter 466, a physician assistant licensed under chapter
 389 458 or chapter 459, or an advanced practice registered nurse
 390 licensed under chapter 464 has determined that the injured
 391 person had an emergency medical condition.

392 4. Reimbursement for services and care provided in
 393 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
 394 provider listed in subparagraph 1. or subparagraph 2. determines
 395 that the injured person did not have an emergency medical
 396 condition.

397 5. Medical benefits do not include massage therapy as
 398 defined in s. 480.033 or acupuncture as defined in s. 457.102,
 399 regardless of the person, entity, or licensee providing massage
 400 therapy or acupuncture, and a licensed massage therapist or

401 licensed acupuncturist may not be reimbursed for medical
402 benefits under this section.

403 6. The Financial Services Commission shall adopt by rule
404 the form that must be used by an insurer and a health care
405 provider specified in sub-subparagraph 2.b., sub-subparagraph
406 2.c., or sub-subparagraph 2.e. to document that the health care
407 provider meets the criteria of this paragraph. Such rule must
408 include a requirement for a sworn statement or affidavit.

409

410 Only insurers writing motor vehicle liability insurance in this
411 state may provide the required benefits of this section, and
412 such insurer may not require the purchase of any other motor
413 vehicle coverage other than the purchase of property damage
414 liability coverage as required by s. 627.7275 as a condition for
415 providing such benefits. Insurers may not require that property
416 damage liability insurance in an amount greater than \$10,000 be
417 purchased in conjunction with personal injury protection. Such
418 insurers shall make benefits and required property damage
419 liability insurance coverage available through normal marketing
420 channels. An insurer writing motor vehicle liability insurance
421 in this state who fails to comply with such availability
422 requirement as a general business practice violates part IX of
423 chapter 626, and such violation constitutes an unfair method of
424 competition or an unfair or deceptive act or practice involving
425 the business of insurance. An insurer committing such violation

426 | is subject to the penalties provided under that part, as well as
427 | those provided elsewhere in the insurance code.

428 | Section 20. Subsection (37) of section 641.31, Florida
429 | Statutes, is amended to read:

430 | 641.31 Health maintenance contracts.—

431 | (37) All health maintenance contracts that provide
432 | coverage for massage must also cover the services of persons
433 | licensed to practice massage therapy pursuant to chapter 480 if
434 | the massage is prescribed by a contracted physician licensed
435 | under chapter 458, chapter 459, chapter 460, or chapter 461 as
436 | medically necessary and the prescription specifies the number of
437 | treatments. Such massage services are subject to the same terms,
438 | conditions, and limitations as those of other covered services.

439 | Section 21. This act shall take effect July 1, 2020.