

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,
 14 477.0265, 480.034, 480.035, 480.043, 480.046,
 15 480.0465, 480.047, 480.052, 480.0535, 627.6407,
 16 627.6619, 627.736, and 641.31 F.S.; conforming
 17 provisions to changes made by the act; making
 18 technical changes; providing an 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:

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. Section 480.033, Florida Statutes, is amended
 48 to read:

49 480.033 Definitions.—As used in this act:

50 (1)~~(5)~~ "Apprentice" means a person approved by the board

51 to study colon hydrotherapy ~~massage~~ under the instruction of a
 52 licensed massage therapist practicing colon hydrotherapy.

53 ~~(2)-(1)~~ "Board" means the Board of Massage Therapy.

54 ~~(3)-(9)~~ "Board-approved massage therapy school" means a
 55 facility that meets minimum standards for training and
 56 curriculum as determined by rule of the board and that is
 57 licensed by the Department of Education pursuant to chapter 1005
 58 or the equivalent licensing authority of another state or is
 59 within the public school system of this state or a college or
 60 university that is eligible to participate in the William L.
 61 Boyd, IV, Effective Access to Student Education Grant Program.

62 ~~(4)-(6)~~ "Colon hydrotherapy" "~~Colonic irrigation~~" means a
 63 method of hydrotherapy used to cleanse the colon with the aid of
 64 a mechanical device and water.

65 ~~(5)-(2)~~ "Department" means the Department of Health.

66 ~~(6)-(11)~~ "Designated establishment manager" means a massage
 67 therapist who holds a clear and active license without
 68 restriction, who is responsible for the operation of a massage
 69 establishment in accordance with the provisions of this chapter,
 70 and who is designated the manager by the rules or practices at
 71 the establishment.

72 (7) "Establishment" or "massage establishment" means a
 73 site or premises, or portion thereof, wherein a massage
 74 therapist practices massage therapy.

75 ~~(8)-(10)~~ "Establishment owner" means a person who has

76 ownership interest in a massage establishment. The term includes
77 an individual who holds a massage establishment license, a
78 general partner of a partnership, an owner or officer of a
79 corporation, and a member of a limited liability company and its
80 subsidiaries who holds a massage establishment license.

81 (9)~~(8)~~ "Licensure" means the procedure by which a person,
82 hereinafter referred to as a "practitioner," applies to the
83 board for approval to practice massage or to operate an
84 establishment.

85 (10)~~(4)~~ "Massage therapist" means a person licensed as
86 required by this act, who performs ~~administers~~ massage therapy,
87 including massage therapy assessment, for compensation.

88 (11)~~(3)~~ "Massage therapy" means the manipulation of the
89 soft tissues of the human body with the hand, foot, knee, arm,
90 or elbow, regardless of whether ~~or not~~ such manipulation is
91 aided by hydrotherapy, including colon hydrotherapy ~~colonic~~
92 ~~irrigation,~~ or thermal therapy; any electrical or mechanical
93 device; or the application to the human body of a chemical or
94 herbal preparation.

95 (12) "Massage therapy assessment" means the determination
96 of the course of massage therapy treatment.

97 Section 5. Subsections (1), (2), and (4) and paragraph (b)
98 of subsection (5) of section 480.041, Florida Statutes, are
99 amended, and subsection (8) is added to that section, to read:

100 480.041 Massage therapists; qualifications; licensure;

101 endorsement.—

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

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

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

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

111 (2) Every person desiring to be examined for licensure as
112 a massage therapist must ~~shall~~ apply to the department in
113 writing upon forms prepared by the board and furnished by the
114 department. Such applicants are ~~shall be~~ subject to the
115 ~~provisions of s. 480.046(1). Applicants may take an examination~~
116 ~~administered by the department only upon meeting the~~
117 ~~requirements of this section as determined by the board.~~

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

122 (5) The board shall adopt rules:

123 (b) Providing for educational standards, examination, and
124 certification for the practice of colon hydrotherapy ~~colonic~~
125 ~~irrigation~~, as defined in s. 480.033 ~~s. 480.033(6)~~, by massage

126 therapists.

127 (8) A person issued a license as an apprentice before July
 128 1, 2020, may continue that apprenticeship and perform massage
 129 therapy as authorized under that license until it expires. Upon
 130 completion of the apprenticeship, which must occur before July
 131 1, 2023, an apprentice may apply to the board for full licensure
 132 and be granted a license if all other applicable licensure
 133 requirements are met.

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

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

137 477.013 Definitions.—As used in this chapter:

138 (13) "Skin care services" means the treatment of the skin
 139 of the body, other than the head, face, and scalp, by the use of
 140 a sponge, brush, cloth, or similar device to apply or remove a
 141 chemical preparation or other substance, except that chemical
 142 peels may be removed by peeling an applied preparation from the
 143 skin by hand. Skin care services must be performed by a licensed
 144 cosmetologist or facial specialist within a licensed cosmetology
 145 or specialty salon, and such services may not involve massage
 146 therapy, as defined in s. 480.033 ~~s. 480.033(3)~~, through
 147 manipulation of the superficial tissue.

148 Section 8. Paragraph (a) of subsection (1) of section
 149 477.0135, Florida Statutes, is amended to read:

150 477.0135 Exemptions.—

151 (1) This chapter does not apply to the following persons
 152 when practicing pursuant to their professional or occupational
 153 responsibilities and duties:

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

157 Section 9. Paragraph (f) of subsection (1) of section
 158 477.0265, Florida Statutes, is amended to read:

159 477.0265 Prohibited acts.—

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

161 (f) Advertise or imply that skin care services or body
 162 wrapping, as performed under this chapter, have any relationship
 163 to the practice of massage therapy as defined in s. 480.033 ~~s.~~
 164 ~~480.033(3)~~, except those practices or activities defined in s.
 165 477.013.

166 Section 10. Subsection (4) of section 480.034, Florida
 167 Statutes, is amended to read:

168 480.034 Exemptions.—

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

172 Section 11. Subsection (2) of section 480.035, Florida
 173 Statutes, is amended to read:

174 480.035 Board of Massage Therapy.—

175 (2) Five members of the board shall be licensed massage

176 therapists and shall have been engaged in the practice of
177 massage therapy for not less than 5 consecutive years prior to
178 the date of appointment to the board. The Governor shall appoint
179 each member for a term of 4 years. Two members of the board
180 shall be laypersons. Each board member shall be a high school
181 graduate or shall have received a high school equivalency
182 diploma. Each board member shall be a citizen of the United
183 States and a resident of this state for not less than 5 years.
184 The appointments are ~~will be~~ subject to confirmation by the
185 Senate.

186 Section 12. Subsection (14) of section 480.043, Florida
187 Statutes, is amended to read:

188 480.043 Massage establishments; requisites; licensure;
189 inspection; human trafficking awareness training and policies.—

190 (14) Except for the requirements of subsection (13), this
191 section does not apply to a physician licensed under chapter
192 457, chapter 458, chapter 459, or chapter 460 who employs a
193 licensed massage therapist to perform massage therapy on the
194 physician's patients at the physician's place of practice. This
195 subsection does not restrict investigations by the department
196 for violations of chapter 456 or this chapter.

197 Section 13. Paragraphs (a), (b), (c), (f), (g), (h), (i),
198 and (o) of subsection (1) of section 480.046, Florida Statutes,
199 are amended to read:

200 480.046 Grounds for disciplinary action by the board.—

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

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

205 (b) Having a license to practice massage therapy revoked,
206 suspended, or otherwise acted against, including the denial of
207 licensure, by the licensing authority of another state,
208 territory, or country.

209 (c) Being convicted or found guilty, regardless of
210 adjudication, of a crime in any jurisdiction which directly
211 relates to the practice of massage therapy or to the ability to
212 practice massage therapy. Any plea of nolo contendere shall be
213 considered a conviction for purposes of this chapter.

214 (f) Aiding, assisting, procuring, or advising any
215 unlicensed person to practice massage therapy contrary to ~~the~~
216 ~~provisions of~~ this chapter or to department or board ~~a rule of~~
217 ~~the department or the board~~.

218 (g) Making deceptive, untrue, or fraudulent
219 representations in the practice of massage therapy.

220 (h) Being unable to practice massage therapy with
221 reasonable skill and safety by reason of illness or use of
222 alcohol, drugs, narcotics, chemicals, or any other type of
223 material or as a result of any mental or physical condition. In
224 enforcing this paragraph, the department ~~shall have~~, upon
225 probable cause, may ~~authority to~~ compel a massage therapist to

226 submit to a mental or physical examination by physicians
227 designated by the department. Failure of a massage therapist to
228 submit to such examination when so directed, unless the failure
229 was due to circumstances beyond her or his control, constitutes
230 ~~shall constitute~~ an admission of the allegations against her or
231 him, consequent upon which a default and final order may be
232 entered without the taking of testimony or presentation of
233 evidence. A massage therapist affected under this paragraph
234 shall at reasonable intervals be afforded an opportunity to
235 demonstrate that she or he can resume the competent practice of
236 massage therapy with reasonable skill and safety to clients.

237 (i) Gross or repeated malpractice or the failure to
238 practice massage therapy with that level of care, skill, and
239 treatment which is recognized by a reasonably prudent massage
240 therapist as being acceptable under similar conditions and
241 circumstances.

242 (o) Practicing massage therapy at a site, location, or
243 place which is not duly licensed as a massage establishment,
244 except that a massage therapist, as provided by ~~rules adopted by~~
245 ~~the board~~ rule, may provide massage therapy services, excluding
246 colon hydrotherapy ~~colonic irrigation~~, at the residence of a
247 client, at the office of the client, at a sports event, at a
248 convention, or at a trade show.

249 Section 14. Section 480.0465, Florida Statutes, is amended
250 to read:

251 480.0465 Advertisement.—Each massage therapist or massage
252 establishment licensed under ~~the provisions of~~ this act shall
253 include the number of the license in any advertisement of
254 massage therapy services appearing in a newspaper, airwave
255 transmission, telephone directory, or other advertising medium.
256 Pending licensure of a new massage establishment pursuant to ~~the~~
257 ~~provisions of~~ s. 480.043(7), the license number of a licensed
258 massage therapist who is an owner or principal officer of the
259 establishment may be used in lieu of the license number for the
260 establishment.

261 Section 15. Paragraphs (a), (b), and (c) of subsection (1)
262 of section 480.047, Florida Statutes, are amended to read:

263 480.047 Penalties.—

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

265 (a) Hold himself or herself out as a massage therapist or
266 to practice massage therapy unless duly licensed under this
267 chapter or unless otherwise specifically exempted from licensure
268 under this chapter.

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

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

275 Section 16. Section 480.052, Florida Statutes, is amended

276 | to read:

277 | 480.052 Power of county or municipality to regulate
 278 | massage therapy.—A county or municipality, within its
 279 | jurisdiction, may regulate persons and establishments licensed
 280 | under this chapter. Such regulation shall not exceed the powers
 281 | of the state under this act or be inconsistent with this act.
 282 | This section shall not be construed to prohibit a county or
 283 | municipality from enacting any regulation of persons or
 284 | establishments not licensed pursuant to this act.

285 | Section 17. Subsections (1) and (2) of section 480.0535,
 286 | Florida Statutes, are amended to read:

287 | 480.0535 Documents required while working in a massage
 288 | establishment.—

289 | (1) In order to provide the department and law enforcement
 290 | agencies the means to more effectively identify, investigate,
 291 | and arrest persons engaging in human trafficking, a person
 292 | employed by a massage establishment and any person performing
 293 | massage therapy therein must immediately present, upon the
 294 | request of an investigator of the department or a law
 295 | enforcement officer, valid government identification while in
 296 | the establishment. A valid government identification for the
 297 | purposes of this section is:

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

300 | (b) A valid, unexpired identification card issued by any

301 state, territory, or district of the United States;
 302 (c) A valid, unexpired United States passport;
 303 (d) A naturalization certificate issued by the United
 304 States Department of Homeland Security;
 305 (e) A valid, unexpired alien registration receipt card
 306 (green card); or
 307 (f) A valid, unexpired employment authorization card
 308 issued by the United States Department of Homeland Security.
 309 (2) A person operating a massage establishment must:
 310 (a) Immediately present, upon the request of an
 311 investigator of the department or a law enforcement officer:
 312 1. Valid government identification while in the
 313 establishment.
 314 2. A copy of the documentation specified in paragraph
 315 (1)(a) for each employee and any person performing massage
 316 therapy in the establishment.
 317 (b) Ensure that each employee and any person performing
 318 massage therapy in the massage establishment is able to
 319 immediately present, upon the request of an investigator of the
 320 department or a law enforcement officer, valid government
 321 identification while in the establishment.
 322 Section 18. Section 627.6407, Florida Statutes, is amended
 323 to read:
 324 627.6407 Massage.—Any policy of health insurance that
 325 provides coverage for massage shall also cover the services of

326 persons licensed to practice massage therapy pursuant to chapter
327 480, where the massage therapy, as defined in chapter 480, has
328 been prescribed by a physician licensed under chapter 458,
329 chapter 459, chapter 460, or chapter 461, as being medically
330 necessary and the prescription specifies the number of
331 treatments.

332 Section 19. Section 627.6619, Florida Statutes, is amended
333 to read:

334 627.6619 Massage.—Any policy of health insurance that
335 provides coverage for massage shall also cover the services of
336 persons licensed to practice massage therapy pursuant to chapter
337 480, where the massage therapy, as defined in chapter 480, has
338 been prescribed by a physician licensed under chapter 458,
339 chapter 459, chapter 460, or chapter 461, as being medically
340 necessary and the prescription specifies the number of
341 treatments.

342 Section 20. Paragraph (a) of subsection (1) of section
343 627.736, Florida Statutes, is amended to read:

344 627.736 Required personal injury protection benefits;
345 exclusions; priority; claims.—

346 (1) REQUIRED BENEFITS.—An insurance policy complying with
347 the security requirements of s. 627.733 must provide personal
348 injury protection to the named insured, relatives residing in
349 the same household, persons operating the insured motor vehicle,
350 passengers in the motor vehicle, and other persons struck by the

351 motor vehicle and suffering bodily injury while not an occupant
352 of a self-propelled vehicle, subject to subsection (2) and
353 paragraph (4) (e), to a limit of \$10,000 in medical and
354 disability benefits and \$5,000 in death benefits resulting from
355 bodily injury, sickness, disease, or death arising out of the
356 ownership, maintenance, or use of a motor vehicle as follows:

357 (a) Medical benefits.—Eighty percent of all reasonable
358 expenses for medically necessary medical, surgical, X-ray,
359 dental, and rehabilitative services, including prosthetic
360 devices and medically necessary ambulance, hospital, and nursing
361 services if the individual receives initial services and care
362 pursuant to subparagraph 1. within 14 days after the motor
363 vehicle accident. The medical benefits provide reimbursement
364 only for:

365 1. Initial services and care that are lawfully provided,
366 supervised, ordered, or prescribed by a physician licensed under
367 chapter 458 or chapter 459, a dentist licensed under chapter
368 466, or a chiropractic physician licensed under chapter 460 or
369 that are provided in a hospital or in a facility that owns, or
370 is wholly owned by, a hospital. Initial services and care may
371 also be provided by a person or entity licensed under part III
372 of chapter 401 which provides emergency transportation and
373 treatment.

374 2. Upon referral by a provider described in subparagraph
375 1., followup services and care consistent with the underlying

376 | medical diagnosis rendered pursuant to subparagraph 1. which may
377 | be provided, supervised, ordered, or prescribed only by a
378 | physician licensed under chapter 458 or chapter 459, a
379 | chiropractic physician licensed under chapter 460, a dentist
380 | licensed under chapter 466, or, to the extent permitted by
381 | applicable law and under the supervision of such physician,
382 | osteopathic physician, chiropractic physician, or dentist, by a
383 | physician assistant licensed under chapter 458 or chapter 459 or
384 | an advanced practice registered nurse licensed under chapter
385 | 464. Followup services and care may also be provided by the
386 | following persons or entities:

387 | a. A hospital or ambulatory surgical center licensed under
388 | chapter 395.

389 | b. An entity wholly owned by one or more physicians
390 | licensed under chapter 458 or chapter 459, chiropractic
391 | physicians licensed under chapter 460, or dentists licensed
392 | under chapter 466 or by such practitioners and the spouse,
393 | parent, child, or sibling of such practitioners.

394 | c. An entity that owns or is wholly owned, directly or
395 | indirectly, by a hospital or hospitals.

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

398 | e. A health care clinic licensed under part X of chapter
399 | 400 which is accredited by an accrediting organization whose
400 | standards incorporate comparable regulations required by this

401 state, or
 402 (I) Has a medical director licensed under chapter 458,
 403 chapter 459, or chapter 460;
 404 (II) Has been continuously licensed for more than 3 years
 405 or is a publicly traded corporation that issues securities
 406 traded on an exchange registered with the United States
 407 Securities and Exchange Commission as a national securities
 408 exchange; and
 409 (III) Provides at least four of the following medical
 410 specialties:
 411 (A) General medicine.
 412 (B) Radiography.
 413 (C) Orthopedic medicine.
 414 (D) Physical medicine.
 415 (E) Physical therapy.
 416 (F) Physical rehabilitation.
 417 (G) Prescribing or dispensing outpatient prescription
 418 medication.
 419 (H) Laboratory services.
 420 3. Reimbursement for services and care provided in
 421 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 422 licensed under chapter 458 or chapter 459, a dentist licensed
 423 under chapter 466, a physician assistant licensed under chapter
 424 458 or chapter 459, or an advanced practice registered nurse
 425 licensed under chapter 464 has determined that the injured

426 | person had an emergency medical condition.

427 | 4. Reimbursement for services and care provided in
428 | subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
429 | provider listed in subparagraph 1. or subparagraph 2. determines
430 | that the injured person did not have an emergency medical
431 | condition.

432 | 5. Medical benefits do not include massage therapy as
433 | defined in s. 480.033 or acupuncture as defined in s. 457.102,
434 | regardless of the person, entity, or licensee providing massage
435 | therapy or acupuncture, and a licensed massage therapist or
436 | licensed acupuncturist may not be reimbursed for medical
437 | benefits under this section.

438 | 6. The Financial Services Commission shall adopt by rule
439 | the form that must be used by an insurer and a health care
440 | provider specified in sub-subparagraph 2.b., sub-subparagraph
441 | 2.c., or sub-subparagraph 2.e. to document that the health care
442 | provider meets the criteria of this paragraph. Such rule must
443 | include a requirement for a sworn statement or affidavit.

444 |
445 | Only insurers writing motor vehicle liability insurance in this
446 | state may provide the required benefits of this section, and
447 | such insurer may not require the purchase of any other motor
448 | vehicle coverage other than the purchase of property damage
449 | liability coverage as required by s. 627.7275 as a condition for
450 | providing such benefits. Insurers may not require that property

451 damage liability insurance in an amount greater than \$10,000 be
452 purchased in conjunction with personal injury protection. Such
453 insurers shall make benefits and required property damage
454 liability insurance coverage available through normal marketing
455 channels. An insurer writing motor vehicle liability insurance
456 in this state who fails to comply with such availability
457 requirement as a general business practice violates part IX of
458 chapter 626, and such violation constitutes an unfair method of
459 competition or an unfair or deceptive act or practice involving
460 the business of insurance. An insurer committing such violation
461 is subject to the penalties provided under that part, as well as
462 those provided elsewhere in the insurance code.

463 Section 21. Subsection (37) of section 641.31, Florida
464 Statutes, is amended to read:

465 641.31 Health maintenance contracts.—

466 (37) All health maintenance contracts that provide
467 coverage for massage must also cover the services of persons
468 licensed to practice massage therapy pursuant to chapter 480 if
469 the massage is prescribed by a contracted physician licensed
470 under chapter 458, chapter 459, chapter 460, or chapter 461 as
471 medically necessary and the prescription specifies the number of
472 treatments. Such massage services are subject to the same terms,
473 conditions, and limitations as those of other covered services.

474 Section 22. This act shall take effect July 1, 2020.