

By Senator Rodriguez

39-00680-21

2021352__

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.; revising a short title; amending s.
 5 480.032, F.S.; revising the purpose of ch. 480, F.S.;
 6 reordering and amending s. 480.033, F.S.; revising and
 7 defining terms; amending ss. 477.013, 477.0135,
 8 477.0265, 480.034, 480.035, 480.041, 480.043, 480.046,
 9 480.0465, 480.047, 480.052, 480.0535, 627.6407,
 10 627.6619, 627.736, 641.31, and 823.05, F.S.;
 11 conforming provisions to changes made by the act;
 12 making technical changes; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Chapter 480, Florida Statutes, entitled "Massage
 17 Practice," is renamed "Massage Therapy Practice."

18 Section 2. Section 480.031, Florida Statutes, is amended to
 19 read:

20 480.031 Short title.—This act ~~shall be known and~~ may be
 21 cited as the "Massage Therapy Practice Act."

22 Section 3. Section 480.032, Florida Statutes, is amended to
 23 read:

24 480.032 Purpose.—The Legislature recognizes that the
 25 unregulated practice of massage therapy poses a danger ~~is~~
 26 ~~potentially dangerous~~ to the public in that massage therapists
 27 must have a knowledge of anatomy and physiology and an
 28 understanding of the relationship between the structure and the
 29 function of the tissues being treated and the total function of

39-00680-21

2021352__

30 the body. Massage therapy is a therapeutic health care practice,
31 and regulations are necessary to protect the public from
32 unqualified practitioners. It is therefore deemed necessary in
33 the interest of public health, safety, and welfare to regulate
34 the practice of massage therapy in this state and, therefore,
35 ~~however,~~ restrictions must ~~shall~~ be imposed to the extent
36 necessary to protect the public from significant and discernible
37 danger to health ~~and yet not~~ in ~~such~~ a manner that does not
38 ~~which will~~ unreasonably affect the competitive market. Further,
39 consumer protection for both health and economic matters must
40 ~~shall~~ be afforded the public through legal remedies provided for
41 in this act.

42 Section 4. Section 480.033, Florida Statutes, is reordered
43 and amended to read:

44 480.033 Definitions.—As used in this act:

45 (2)~~(1)~~ "Board" means the Board of Massage Therapy.

46 (5)~~(2)~~ "Department" means the Department of Health.

47 (11)~~(3)~~ "Massage therapy" means the manipulation of the
48 soft tissues of the human body with the hand, foot, knee, arm,
49 or elbow, regardless of whether ~~or not~~ such manipulation is
50 aided by hydrotherapy, including colonic irrigation, or thermal
51 therapy; any electrical or mechanical device; or the application
52 to the human body of a chemical or herbal preparation, an over-
53 the-counter topical agent, or a topical agent prescribed by a
54 health care practitioner applied in accordance with board rule.

55 (10)~~(4)~~ "Massage therapist" means a person licensed as
56 required by this act, who performs ~~administers~~ massage therapy,
57 including massage therapy assessment, for compensation.

58 (1)~~(5)~~ "Apprentice" means a person approved by the board to

39-00680-21

2021352__

59 study colonic irrigation under the instruction of a licensed
60 massage therapist practicing colonic irrigation.

61 (4)~~(6)~~ "Colonic irrigation" means a method of hydrotherapy
62 used to cleanse the colon with the aid of a mechanical device
63 and water.

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

67 (9)~~(8)~~ "Licensure" means the procedure by which a person,
68 hereinafter referred to as a "practitioner," applies to the
69 board for approval to practice massage therapy or to operate an
70 establishment.

71 (3)~~(9)~~ "Board-approved massage therapy school" means a
72 facility that meets minimum standards for training and
73 curriculum as determined by rule of the board and that is
74 licensed by the Department of Education pursuant to chapter 1005
75 or the equivalent licensing authority of another state or is
76 within the public school system of this state or a college or
77 university that is eligible to participate in the William L.
78 Boyd, IV, Effective Access to Student Education Grant Program.

79 (8)~~(10)~~ "Establishment owner" means a person who has
80 ownership interest in a massage establishment. The term includes
81 an individual who holds a massage establishment license, a
82 general partner of a partnership, an owner or officer of a
83 corporation, and a member of a limited liability company and its
84 subsidiaries who holds a massage establishment license.

85 (6)~~(11)~~ "Designated establishment manager" means a massage
86 therapist who holds a clear and active license without
87 restriction, who is responsible for the operation of a massage

39-00680-21

2021352__

88 establishment in accordance with the provisions of this chapter,
89 and who is designated the manager by the rules or practices at
90 the establishment.

91 (12) "Massage therapy assessment" means the determination
92 of the course of massage therapy treatment.

93 Section 5. Subsection (13) of section 477.013, Florida
94 Statutes, is amended to read:

95 477.013 Definitions.—As used in this chapter:

96 (13) "Skin care services" means the treatment of the skin
97 of the body, other than the head, face, and scalp, by the use of
98 a sponge, brush, cloth, or similar device to apply or remove a
99 chemical preparation or other substance, except that chemical
100 peels may be removed by peeling an applied preparation from the
101 skin by hand. Skin care services must be performed by a licensed
102 cosmetologist or facial specialist within a licensed cosmetology
103 or specialty salon, and such services may not involve massage
104 therapy, as defined in s. 480.033 ~~s. 480.033(3)~~, through
105 manipulation of the superficial tissue.

106 Section 6. Paragraph (a) of subsection (1) of section
107 477.0135, Florida Statutes, is amended to read:

108 477.0135 Exemptions.—

109 (1) This chapter does not apply to the following persons
110 when practicing pursuant to their professional or occupational
111 responsibilities and duties:

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

115 Section 7. Paragraph (f) of subsection (1) of section
116 477.0265, Florida Statutes, is amended to read:

39-00680-21

2021352__

117 477.0265 Prohibited acts.—

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

119 (f) Advertise or imply that skin care services, as
120 performed under this chapter, have any relationship to the
121 practice of massage therapy as defined in s. 480.033 ~~s.~~
122 ~~480.033(3)~~, except those practices or activities defined in s.
123 477.013.

124 Section 8. Subsection (4) of section 480.034, Florida
125 Statutes, is amended to read:

126 480.034 Exemptions.—

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

130 Section 9. Subsection (2) of section 480.035, Florida
131 Statutes, is amended to read:

132 480.035 Board of Massage Therapy.—

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

144 Section 10. Subsections (1) and (4) and paragraph (b) of
145 subsection (5) of section 480.041, Florida Statutes, are amended

39-00680-21

2021352__

146 to read:

147 480.041 Massage therapists; qualifications; licensure;
148 endorsement.—

149 (1) Any person is qualified for licensure as a massage
150 therapist under this act who meets all of the following
151 requirements:

152 (a) Is at least 18 years of age or has received a high
153 school diploma or high school equivalency diploma.†

154 (b) Has completed a course of study at a board-approved
155 massage therapy school that meets standards adopted by the
156 board.†~~and~~

157 (c) Has received a passing grade on a national examination
158 designated by the board.

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

163 (5) The board shall adopt rules:

164 (b) Providing for educational standards, examination, and
165 certification for the practice of colonic irrigation, as defined
166 in s. 480.033 ~~s. 480.033(6)~~, by massage therapists.

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

169 480.043 Massage establishments; requisites; licensure;
170 inspection; human trafficking awareness training and policies.—

171 (14) Except for the requirements of subsection (13), this
172 section does not apply to a physician licensed under chapter
173 457, chapter 458, chapter 459, or chapter 460 who employs a
174 licensed massage therapist to perform massage therapy on the

39-00680-21

2021352__

175 physician's patients at the physician's place of practice. This
176 subsection does not restrict investigations by the department
177 for violations of chapter 456 or this chapter.

178 Section 12. Paragraphs (a), (b), (c), (f) through (i), and
179 (o) of subsection (1) of section 480.046, Florida Statutes, are
180 amended to read:

181 480.046 Grounds for disciplinary action by the board.—

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

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

186 (b) Having a license to practice massage therapy revoked,
187 suspended, or otherwise acted against, including the denial of
188 licensure, by the licensing authority of another state,
189 territory, or country.

190 (c) Being convicted or found guilty, regardless of
191 adjudication, of a crime in any jurisdiction which directly
192 relates to the practice of massage therapy or to the ability to
193 practice massage therapy. Any plea of nolo contendere shall be
194 considered a conviction for purposes of this chapter.

195 (f) Aiding, assisting, procuring, or advising any
196 unlicensed person to practice massage therapy contrary to ~~the~~
197 ~~provisions of~~ this chapter or to department or board ~~a rule of~~
198 ~~the department or the board~~.

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

201 (h) Being unable to practice massage therapy with
202 reasonable skill and safety by reason of illness or use of
203 alcohol, drugs, narcotics, chemicals, or any other type of

39-00680-21

2021352__

204 material or as a result of any mental or physical condition. In
205 enforcing this paragraph, the department ~~shall have~~, upon
206 probable cause, may ~~authority to~~ compel a massage therapist to
207 submit to a mental or physical examination by physicians
208 designated by the department. Failure of a massage therapist to
209 submit to such examination when so directed, unless the failure
210 was due to circumstances beyond her or his control, constitutes
211 ~~shall constitute~~ an admission of the allegations against her or
212 him, consequent upon which a default and final order may be
213 entered without the taking of testimony or presentation of
214 evidence. A massage therapist affected under this paragraph
215 shall at reasonable intervals be afforded an opportunity to
216 demonstrate that she or he can resume the competent practice of
217 massage therapy with reasonable skill and safety to clients.

218 (i) Gross or repeated malpractice or the failure to
219 practice massage therapy with that level of care, skill, and
220 treatment which is recognized by a reasonably prudent massage
221 therapist as being acceptable under similar conditions and
222 circumstances.

223 (o) Practicing massage therapy at a site, location, or
224 place which is not duly licensed as a massage establishment,
225 except that a massage therapist, as provided by ~~rules adopted by~~
226 ~~the board~~ rule, may provide massage therapy services, excluding
227 colonic irrigation, at the residence of a client, at the office
228 of the client, at a sports event, at a convention, or at a trade
229 show.

230 Section 13. Section 480.0465, Florida Statutes, is amended
231 to read:

232 480.0465 Advertisement.—Each massage therapist or massage

39-00680-21

2021352__

233 establishment licensed under ~~the provisions of~~ this act shall
234 include the number of the license in any advertisement of
235 massage therapy services appearing in a newspaper, airwave
236 transmission, telephone directory, or other advertising medium.
237 Pending licensure of a new massage establishment pursuant to ~~the~~
238 ~~provisions of~~ s. 480.043(7), the license number of a licensed
239 massage therapist who is an owner or principal officer of the
240 establishment may be used in lieu of the license number for the
241 establishment.

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

244 480.047 Penalties.—

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

246 (a) Hold himself or herself out as a massage therapist or
247 to practice massage therapy unless duly licensed under this
248 chapter or unless otherwise specifically exempted from licensure
249 under this chapter.

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

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

256 Section 15. Section 480.052, Florida Statutes, is amended
257 to read:

258 480.052 Power of county or municipality to regulate massage
259 therapy.—A county or municipality, within its jurisdiction, may
260 regulate persons and establishments licensed under this chapter.
261 Such regulation may ~~shall~~ not exceed the powers of the state

39-00680-21

2021352__

262 under this act or be inconsistent with this act. This section
263 may ~~shall~~ not be construed to prohibit a county or municipality
264 from enacting any regulation of persons or establishments not
265 licensed pursuant to this act.

266 Section 16. Subsections (1) and (2) of section 480.0535,
267 Florida Statutes, are amended to read:

268 480.0535 Documents required while working in a massage
269 establishment.—

270 (1) In order to provide the department and law enforcement
271 agencies the means to more effectively identify, investigate,
272 and arrest persons engaging in human trafficking, a person
273 employed by a massage establishment and any person performing
274 massage therapy therein must immediately present, upon the
275 request of an investigator of the department or a law
276 enforcement officer, valid government identification while in
277 the establishment. Any of the following is a valid government
278 identification for the purposes of this section ~~is~~:

279 (a) A valid, unexpired driver license issued by any state,
280 territory, or district of the United States. †

281 (b) A valid, unexpired identification card issued by any
282 state, territory, or district of the United States. †

283 (c) A valid, unexpired United States passport. †

284 (d) A naturalization certificate issued by the United
285 States Department of Homeland Security. †

286 (e) A valid, unexpired alien registration receipt card
287 (green card). † ~~or~~

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

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

39-00680-21

2021352__

291 (a) Immediately present, upon the request of an
292 investigator of the department or a law enforcement officer:

293 1. Valid government identification while in the
294 establishment.

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

298 (b) Ensure that each employee and any person performing
299 massage therapy in the massage establishment is able to
300 immediately present, upon the request of an investigator of the
301 department or a law enforcement officer, valid government
302 identification while in the establishment.

303 Section 17. Section 627.6407, Florida Statutes, is amended
304 to read:

305 627.6407 Massage.—Any policy of health insurance that
306 provides coverage for massage shall also cover the services of
307 persons licensed to practice massage therapy pursuant to chapter
308 480, where the massage therapy, as defined in chapter 480, has
309 been prescribed by a physician licensed under chapter 458,
310 chapter 459, chapter 460, or chapter 461, as being medically
311 necessary and the prescription specifies the number of
312 treatments.

313 Section 18. Section 627.6619, Florida Statutes, is amended
314 to read:

315 627.6619 Massage.—Any policy of health insurance that
316 provides coverage for massage shall also cover the services of
317 persons licensed to practice massage therapy pursuant to chapter
318 480, where the massage therapy, as defined in chapter 480, has
319 been prescribed by a physician licensed under chapter 458,

39-00680-21

2021352__

320 chapter 459, chapter 460, or chapter 461, as being medically
321 necessary and the prescription specifies the number of
322 treatments.

323 Section 19. Paragraph (a) of subsection (1) of section
324 627.736, Florida Statutes, is amended to read:

325 627.736 Required personal injury protection benefits;
326 exclusions; priority; claims.—

327 (1) REQUIRED BENEFITS.—An insurance policy complying with
328 the security requirements of s. 627.733 must provide personal
329 injury protection to the named insured, relatives residing in
330 the same household, persons operating the insured motor vehicle,
331 passengers in the motor vehicle, and other persons struck by the
332 motor vehicle and suffering bodily injury while not an occupant
333 of a self-propelled vehicle, subject to subsection (2) and
334 paragraph (4) (e), to a limit of \$10,000 in medical and
335 disability benefits and \$5,000 in death benefits resulting from
336 bodily injury, sickness, disease, or death arising out of the
337 ownership, maintenance, or use of a motor vehicle as follows:

338 (a) *Medical benefits.*—Eighty percent of all reasonable
339 expenses for medically necessary medical, surgical, X-ray,
340 dental, and rehabilitative services, including prosthetic
341 devices and medically necessary ambulance, hospital, and nursing
342 services if the individual receives initial services and care
343 pursuant to subparagraph 1. within 14 days after the motor
344 vehicle accident. The medical benefits provide reimbursement
345 only for:

346 1. Initial services and care that are lawfully provided,
347 supervised, ordered, or prescribed by a physician licensed under
348 chapter 458 or chapter 459, a dentist licensed under chapter

39-00680-21

2021352__

349 466, a chiropractic physician licensed under chapter 460, or an
350 advanced practice registered nurse registered under s. 464.0123
351 or that are provided in a hospital or in a facility that owns,
352 or is wholly owned by, a hospital. Initial services and care may
353 also be provided by a person or entity licensed under part III
354 of chapter 401 which provides emergency transportation and
355 treatment.

356 2. Upon referral by a provider described in subparagraph
357 1., followup services and care consistent with the underlying
358 medical diagnosis rendered pursuant to subparagraph 1. which may
359 be provided, supervised, ordered, or prescribed only by a
360 physician licensed under chapter 458 or chapter 459, a
361 chiropractic physician licensed under chapter 460, a dentist
362 licensed under chapter 466, or an advanced practice registered
363 nurse registered under s. 464.0123, or, to the extent permitted
364 by applicable law and under the supervision of such physician,
365 osteopathic physician, chiropractic physician, or dentist, by a
366 physician assistant licensed under chapter 458 or chapter 459 or
367 an advanced practice registered nurse licensed under chapter
368 464. Followup services and care may also be provided by the
369 following persons or entities:

370 a. A hospital or ambulatory surgical center licensed under
371 chapter 395.

372 b. An entity wholly owned by one or more physicians
373 licensed under chapter 458 or chapter 459, chiropractic
374 physicians licensed under chapter 460, advanced practice
375 registered nurses registered under s. 464.0123, or dentists
376 licensed under chapter 466 or by such practitioners and the
377 spouse, parent, child, or sibling of such practitioners.

39-00680-21

2021352__

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

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

382 e. A health care clinic licensed under part X of chapter
383 400 which is accredited by an accrediting organization whose
384 standards incorporate comparable regulations required by this
385 state, or

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

388 (II) Has been continuously licensed for more than 3 years
389 or is a publicly traded corporation that issues securities
390 traded on an exchange registered with the United States
391 Securities and Exchange Commission as a national securities
392 exchange; and

393 (III) Provides at least four of the following medical
394 specialties:

395 (A) General medicine.

396 (B) Radiography.

397 (C) Orthopedic medicine.

398 (D) Physical medicine.

399 (E) Physical therapy.

400 (F) Physical rehabilitation.

401 (G) Prescribing or dispensing outpatient prescription
402 medication.

403 (H) Laboratory services.

404 3. Reimbursement for services and care provided in
405 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
406 licensed under chapter 458 or chapter 459, a dentist licensed

39-00680-21

2021352__

407 under chapter 466, a physician assistant licensed under chapter
408 458 or chapter 459, or an advanced practice registered nurse
409 licensed under chapter 464 has determined that the injured
410 person had an emergency medical condition.

411 4. Reimbursement for services and care provided in
412 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
413 provider listed in subparagraph 1. or subparagraph 2. determines
414 that the injured person did not have an emergency medical
415 condition.

416 5. Medical benefits do not include massage therapy as
417 defined in s. 480.033 or acupuncture as defined in s. 457.102,
418 regardless of the person, entity, or licensee providing massage
419 therapy or acupuncture, and a licensed massage therapist or
420 licensed acupuncturist may not be reimbursed for medical
421 benefits under this section.

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

428

429 Only insurers writing motor vehicle liability insurance in this
430 state may provide the required benefits of this section, and
431 such insurer may not require the purchase of any other motor
432 vehicle coverage other than the purchase of property damage
433 liability coverage as required by s. 627.7275 as a condition for
434 providing such benefits. Insurers may not require that property
435 damage liability insurance in an amount greater than \$10,000 be

39-00680-21

2021352__

436 purchased in conjunction with personal injury protection. Such
437 insurers shall make benefits and required property damage
438 liability insurance coverage available through normal marketing
439 channels. An insurer writing motor vehicle liability insurance
440 in this state who fails to comply with such availability
441 requirement as a general business practice violates part IX of
442 chapter 626, and such violation constitutes an unfair method of
443 competition or an unfair or deceptive act or practice involving
444 the business of insurance. An insurer committing such violation
445 is subject to the penalties provided under that part, as well as
446 those provided elsewhere in the insurance code.

447 Section 20. Subsection (37) of section 641.31, Florida
448 Statutes, is amended to read:

449 641.31 Health maintenance contracts.—

450 (37) All health maintenance contracts that provide coverage
451 for massage must also cover the services of persons licensed to
452 practice massage therapy pursuant to chapter 480 if the massage
453 is prescribed by a contracted physician licensed under chapter
454 458, chapter 459, chapter 460, or chapter 461 as medically
455 necessary and the prescription specifies the number of
456 treatments. Such massage services are subject to the same terms,
457 conditions, and limitations as those of other covered services.

458 Section 21. Subsection (3) of section 823.05, Florida
459 Statutes, is amended to read:

460 823.05 Places and groups engaged in certain activities
461 declared a nuisance; abatement and enjoinder.—

462 (3) A massage establishment as defined in s. 480.033 ~~s.~~
463 ~~480.033(7)~~ which operates in violation of s. 480.0475 or s.
464 480.0535(2) is declared a nuisance and may be abated or enjoined

39-00680-21

2021352__

465 as provided in ss. 60.05 and 60.06.

466 Section 22. This act shall take effect July 1, 2021.