

Note: As Approved by the Governor March 8, 2018

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2018

By: Representative White

To: Public Health and Human  
Services

HOUSE BILL NO. 905

1 AN ACT TO REENACT SECTIONS 73-67-1 THROUGH 73-67-37,  
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI PROFESSIONAL  
3 MASSAGE THERAPY ACT; TO AMEND SECTION 73-67-39, MISSISSIPPI CODE  
4 OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE MISSISSIPPI  
5 PROFESSIONAL MASSAGE THERAPY ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 73-67-1, Mississippi Code of 1972, is  
8 reenacted as follows:

9 73-67-1. This chapter shall be known and may be cited as the  
10 "Mississippi Professional Massage Therapy Act."

11 **SECTION 2.** Section 73-67-3, Mississippi Code of 1972, is  
12 reenacted as follows:

13 73-67-3. The Legislature finds that in the profession and  
14 practice of massage therapy there is a necessity to preserve and  
15 protect individual life and health, promote the public interest  
16 and welfare by providing for the licensure of massage therapists  
17 and assuring public safety.

18 **SECTION 3.** Section 73-67-5, Mississippi Code of 1972, is  
19 reenacted as follows:



20 73-67-5. (1) The provisions of this chapter shall not apply  
21 to the following:

22 (a) Persons state licensed, state registered, state  
23 certified, or otherwise state credentialed by the laws of this  
24 state to include massage as part of their practice, or other  
25 allied modalities that are certified by a nationally accredited  
26 organization recognized by the board;

27 (b) Students enrolled in a massage therapy school and,  
28 at the same time, working in a student clinic, and out-of-state  
29 massage therapy instructors when teaching in these programs;

30 (2) Any exemption granted under this section is effective  
31 only insofar as and to the extent that the bona fide practice of  
32 the profession or business of the person exempted overlaps into  
33 the field comprehended by this law, and exemptions under this  
34 section are only for those activities that are currently  
35 authorized and performed in the course of the bona fide practice  
36 of the business or profession of the person exempted.

37 **SECTION 4.** Section 73-67-7, Mississippi Code of 1972, is  
38 reenacted as follows:

39 73-67-7. For purposes of this chapter, the following terms  
40 shall have the meanings stated in this section, unless otherwise  
41 stated:

42 (a) "Approved massage therapy school" means a facility  
43 that is licensed by this board and meets the curriculum and  
44 instruction requirements as stated in this chapter.



45           (b) "Board" means the State Board of Massage Therapy as  
46 created in this chapter.

47           (c) "Board-accepted hours" means hours of education  
48 accepted by the board to meet requirements of exemption and/or  
49 continuing education for pre-act practitioners and is different  
50 from "board-approved programs" and/or "board-approved school  
51 hours."

52           (d) "Classroom hour" means no less than fifty (50)  
53 minutes of any one (1) clock hour during which the student  
54 participates in a learning activity under the supervision of a  
55 board licensed instructor.

56           (e) "Examination" means the State Board of Massage  
57 Therapy approved examination for licensure.

58           (f) "License" means a State Board of Massage Therapy  
59 approved form of credential indicating that the license holder has  
60 met the requirements of this chapter for the practice of massage  
61 therapy.

62           (g) "Massage" means touch, stroking, kneading,  
63 stretching, friction, percussion and vibration, and includes  
64 holding, positioning, causing movement of the soft tissues and  
65 applying manual touch and pressure to the body (excluding an  
66 osseous tissue manipulation or adjustment). "Therapy" means  
67 action aimed at achieving or increasing health and wellness.  
68 "Massage therapy" means the profession in which the practitioner  
69 applies massage techniques with the intent of positively affecting



70 the health and well-being of the client, and may adjunctively (i)  
71 apply allied modalities, heat, cold, water and topical  
72 preparations not classified as prescription drugs, (ii) use hand  
73 held tools such as electric hand massagers used adjunctively to  
74 the application of hand massage or devices designed as t-bars or  
75 knobbies, and (iii) instruct self-care and stress management.  
76 "Manual" means by use of hand or body.

77 (h) "Massage establishment" means a place of business  
78 where massage is being conducted.

79 (i) "Massage therapist" means a person who practices  
80 massage therapy.

81 (j) "MPMTA" means the "Mississippi Professional Massage  
82 Therapy Act."

83 (k) "Mississippi State Law Examination" means the  
84 comprehensive examination on the Mississippi Professional Massage  
85 Therapy Act and the associated relevant Board Rules and  
86 Regulations that is given by the board or its representative.

87 (l) "Pre-act practitioner" means an individual who has  
88 practiced professional massage therapy before January 1, 2001.

89 (m) "Professional" means requiring minimum standards of  
90 conduct, ethics and education.

91 (n) "Provisional permit" means a temporary permit  
92 approved by the board when all requirements, other than  
93 board-approved national or state examinations, have been met, not  
94 to exceed ninety (90) days.



95           **SECTION 5.** Section 73-67-9, Mississippi Code of 1972, is  
96 reenacted as follows:

97           73-67-9. (1) There is created the State Board of Massage  
98 Therapy.

99           (2) The board shall consist of five (5) members appointed by  
100 the Governor, with the advice and consent of the Senate. At least  
101 three (3) members shall be appointed from a list submitted by  
102 state representatives of one or more nationally recognized  
103 professional massage therapy association(s), all of whom must be  
104 residents of Mississippi and must have engaged in the practice of  
105 massage therapy within the state for at least three (3) years, one  
106 (1) member shall be a licensed health professional in a health  
107 field other than massage therapy and one (1) member shall be a  
108 consumer at large who is not associated with or financially  
109 interested in the practice or business of massage therapy. No  
110 member of the board may be an owner or partner of a massage  
111 therapy school. The initial members of the board shall be  
112 appointed for staggered terms, as follows: one (1) member shall  
113 be appointed for a term that ends on June 30, 2002; one (1) member  
114 shall be appointed for a term that ends on June 30, 2003; one (1)  
115 member shall be appointed for a term that ends on June 30, 2004;  
116 and two (2) members shall be appointed for terms that end on June  
117 30, 2005. Appointments shall be made within ninety (90) days from  
118 July 1, 2001.



119 (3) All subsequent appointments to the board shall be  
120 appointed by the Governor for terms of four (4) years from the  
121 expiration date of the previous term. No person shall be  
122 appointed for more than two (2) consecutive terms. By approval of  
123 the majority of the board, the service of a member may be extended  
124 at the completion of a four-year term until a new member is  
125 appointed or the current member is reappointed. The board shall  
126 elect one (1) of the appointed massage therapists as the chairman  
127 of the board.

128 (4) A majority of the board may appoint an executive  
129 director and other such individuals, including an attorney, as may  
130 be necessary to implement the provisions of this chapter. The  
131 board may hold additional meetings at such times and places as it  
132 deems necessary. A majority of the board shall constitute a  
133 quorum and a majority of the board shall be required to grant or  
134 revoke a license.

135 **SECTION 6.** Section 73-67-11, Mississippi Code of 1972, is  
136 reenacted as follows:

137 73-67-11. Before entering upon discharge of the duties of  
138 the office, the executive director of the board shall furnish a  
139 bond, approved by the board, to the state in the sum of Five  
140 Thousand Dollars (\$5,000.00). The bond shall be conditioned upon  
141 the faithful discharge of the duties of the office, the premium on  
142 the bond shall be paid from funds paid into the State Treasury by  
143 the director of the board, and the bond shall be deposited with



144 the Secretary of State. All fees and other monies collected or  
145 received by the board shall be paid into and credited to a special  
146 fund that is created in the State Treasury, which shall be known  
147 as the "State Board of Massage Therapy Fund." Any interest earned  
148 on the special fund shall be credited to the special fund and  
149 shall not be paid into the State General Fund. Any unexpended  
150 monies remaining in the special fund at the end of a fiscal year  
151 shall not lapse into the State General Fund. Monies in the  
152 special fund shall be expended exclusively for the purposes of  
153 carrying out the provisions of this chapter. Disbursement of  
154 monies in the special fund shall be made only upon warrants issued  
155 by the State Fiscal Officer upon requisitions signed by the  
156 treasurer of the board. The financial records of the board shall  
157 be audited annually by the State Auditor. The board shall receive  
158 no appropriations from any state funds for its support except from  
159 the special fund.

160       **SECTION 7.** Section 73-67-13, Mississippi Code of 1972, is  
161 reenacted as follows:

162       73-67-13. Each member of the board shall receive the per  
163 diem authorized under Section 25-3-69 for each day actually  
164 discharging his official duties, and shall receive reimbursement  
165 for mileage and necessary expense incurred, as provided in Section  
166 25-3-41. The expenses of the board in carrying out the provisions  
167 of this chapter shall be paid upon requisitions signed by the  
168 chairman and/or secretary of the board and warrants signed by the



169 State Fiscal Officer from the State Board of Massage Therapy Fund.  
170 Such expenses shall not exceed the amount paid into the State  
171 Treasury under the provisions of this chapter.

172 **SECTION 8.** Section 73-67-15, Mississippi Code of 1972, is  
173 reenacted as follows:

174 73-67-15. (1) The board shall:

175 (a) Adopt an official seal and keep a record of its  
176 proceedings, persons licensed as massage therapists, and a record  
177 of the licenses that have been revoked or suspended;

178 (b) Keep on file all appropriate records pertaining to  
179 each license;

180 (c) Annually, on or before February 15, make a report  
181 to the Governor and Legislature of all of its official acts during  
182 the preceding year, its total receipts and disbursements, and a  
183 full and complete report of relevant statistical and significantly  
184 notable conditions of massage therapists in this state as  
185 uniformly stipulated by the board;

186 (d) Evaluate the qualifications of applicants for  
187 licensure under this chapter, and advise applicants as to the  
188 acceptance or denial of licensure with any reasons for denial  
189 within forty-five (45) days;

190 (e) Issue licenses to applicants who meet the  
191 requirements of this chapter;

192 (f) Inspect, or have inspected, when required, the  
193 business premises of any licensed massage therapist during their





194 operating hours, so long as that inspection does not infringe on  
195 the reasonable privacy of any therapist's clients;

196 (g) Establish minimum training and educational  
197 standards for obtaining a license under this chapter, provided  
198 that requirements do not decrease;

199 (h) Establish a procedure for approval of educational  
200 standards required by this chapter;

201 (i) Investigate persons suspected of engaging in  
202 practices that may violate provisions of this chapter;

203 (j) Revoke, suspend or deny a license in accordance  
204 with the provisions of this chapter;

205 (k) Adopt an annual budget;

206 (l) Establish policies with respect to continuing  
207 education;

208 (m) Adopt rules:

209 (i) Specifying standards and procedures for  
210 issuance of a provisional permit;

211 (ii) Specifying licensure procedures for  
212 practitioners desiring to be licensed in this state who hold an  
213 active license or credentials from another state board;

214 (iii) The board shall prescribe renewal  
215 procedures, requirements, dates and fees for massage therapy  
216 licenses issued by the board and shall include provisions for  
217 inactive and lapsed licenses; those rules shall be in accordance  
218 with Section 33-1-39;



219 (n) Make available all forms necessary for carrying out  
220 all provisions of this chapter and any and all necessary business  
221 of the board;

222 (o) Establish written duties of the executive director;

223 (p) Establish a set of reasonable and customary fines  
224 and penalties for violations of this chapter, and fees, including  
225 refund policies, which shall be standardized and not exceeded  
226 unless amended with at least thirty (30) days' notice to those who  
227 are licensed;

228 (q) Establish, amend or repeal any rules or regulations  
229 necessary to carry out the purposes of this chapter and the duties  
230 and responsibilities of the board. Affected practitioners shall  
231 be sent relevant changes no less than once per licensure renewal;

232 (r) The board shall maintain a current register listing  
233 the name of every massage therapist licensed to practice in this  
234 state, his/her last known place of business and last known place  
235 of residence, and the date and number of his/her license;

236 (s) The board shall set up guidelines for the operation  
237 of schools of massage therapy, and it is charged with that  
238 regulation in this state. The board may prescribe reasonable  
239 rules and regulations governing schools of massage therapy for the  
240 guidance of persons licensed under this chapter in the operation  
241 of schools of massage therapy and in the practice of massage  
242 therapy. When the board has reasons to believe that any of the  
243 provisions of this chapter or the rules and regulations of the



244 board have been violated, either upon receipt of a written  
245 complaint alleging those violations or upon the board's own  
246 initiative, the board or any of its authorized agents shall  
247 investigate same and may enter upon the premises of a school of  
248 massage therapy at any time during regular business hours of that  
249 school to conduct the investigation. The investigation may  
250 include, but not be limited to, conducting oral interviews with  
251 the complaining party, school or school owner(s) and/or students  
252 of the school, and reviewing records of the school pertinent to  
253 the complaint and related to an area subject to the authority of  
254 the board.

255 (2) Each board member shall be held accountable to the  
256 Governor for the proper performance of all duties and obligations  
257 of the member's office. Board members shall be immune from civil  
258 liability pertaining to any legal functions involving the carrying  
259 out of the activities and responsibilities of this chapter.

260 **SECTION 9.** Section 73-67-17, Mississippi Code of 1972, is  
261 reenacted as follows:

262 73-67-17. The board may adopt rules:

263 (a) Establishing reasonable standards concerning the  
264 sanitary, hygienic and healthful conditions of the licensed  
265 massage therapist and of premises and facilities used by massage  
266 therapists;

267 (b) Relating to the methods and procedures used in the  
268 practice of massage;



269 (c) Governing the examination and investigation of  
270 applicants for the licenses issued under this chapter and the  
271 issuance, renewal, suspension and revocation of the license;

272 (d) Setting standards for certifying continuing  
273 education classes;

274 (e) Requiring that massage therapists supply the board  
275 with the accurate, current address or addresses where they  
276 practice massage;

277 (f) Establishing the educational, training and  
278 experience requirements for licensure by reciprocity;

279 (g) Establishing requirements for issuance and  
280 retention of an inactive license and/or provisional permits.

281 **SECTION 10.** Section 73-67-19, Mississippi Code of 1972, is  
282 reenacted as follows:

283 73-67-19. (1) The board shall report to the proper district  
284 attorney all cases that, in the judgment of the board, warrant  
285 prosecution.

286 (2) Massage therapists or establishments may not be  
287 discriminated against regarding business licenses and shall be  
288 treated as any other health care profession.

289 (3) Any civil penalty imposed under this section shall  
290 become due and payable when the person incurring the penalty  
291 receives a notice in writing of the penalty. The notice shall be  
292 sent by registered or certified mail. The person to whom the  
293 notice is addressed shall have thirty (30) days from the date of



294 mailing of the notice in which to make written application for a  
295 hearing. Any person who makes that application shall be entitled  
296 to a hearing. The hearing shall be conducted as a contested case  
297 hearing. When an order assessing a civil penalty under this  
298 section becomes final by operation of law or on appeal, unless the  
299 amount of penalty is paid within ten (10) days after the order  
300 becomes final, it may be recorded with the circuit clerk in any  
301 county of this state. The clerk shall then record the name of the  
302 person incurring the penalty and the amount of the penalty in his  
303 lien record book.

304 (4) Where the board proposes to refuse to grant or renew a  
305 license or proposes to revoke or suspend a license, an opportunity  
306 for a hearing shall be accorded. The board may designate any  
307 competent person(s) to preside at the hearing. The board shall  
308 promulgate rules for the conduct of hearings and issuance of  
309 orders.

310 (5) The board may adopt rules requiring any person,  
311 including, but not limited to, licensed massage therapists,  
312 corporations, organizations, health care facilities and state or  
313 local governmental agencies to report to the board any conviction,  
314 determination or finding that a holder of a license has committed  
315 an act that constitutes unprofessional conduct, or to report  
316 information that indicates that the holder of a license may not be  
317 able to practice his profession with reasonable skill and safety  
318 to consumers as a result of a mental, emotional or physical



319 condition. If the entity fails to furnish a required report, the  
320 board may petition the circuit court of the county in which the  
321 entity resides or is found, and the court shall issue to the  
322 entity an order to furnish the required report. A failure to obey  
323 the order is a contempt of court.

324 (6) A person is immune from civil liability, whether direct  
325 or derivative, for providing information to the board.

326 (7) Upon the complaint of any citizen of this state, or upon  
327 its own motion, the board may investigate any alleged violation of  
328 this chapter. In the conduct of investigations, the board may  
329 take evidence; take the depositions of witnesses, including the  
330 person charged; compel the appearance of witnesses, including the  
331 person charged, before the board in person the same as in civil  
332 cases; require answers to interrogations; and compel the  
333 production of books, papers, accounts, documents and testimony  
334 pertaining to the matter under investigation.

335 (8) The board shall make available, upon request, written  
336 appeals procedures for anyone whose license has been denied,  
337 suspended or revoked, and/or for anyone accused of violating any  
338 provisions of this chapter.

339 (9) Any time the board intends to deny an application for  
340 licensure, or suspend or revoke an existing license, the board  
341 shall give the person an opportunity for a hearing before taking  
342 final action.



343           **SECTION 11.** Section 73-67-21, Mississippi Code of 1972, is  
344 reenacted as follows:

345           73-67-21. (1) It shall be the responsibility of a massage  
346 therapy establishment to verify the current license of any and all  
347 persons practicing massage therapy at the location of or on behalf  
348 of the establishment. Failure to comply is subject to penalty  
349 assessed by the board of not less than Five Hundred Dollars  
350 (\$500.00) and not more than One Thousand Dollars (\$1,000.00) per  
351 offense.

352           (2) No person may advertise massage or practice massage for  
353 compensation in this state unless he is licensed as a massage  
354 therapist by the board. No person may use the title of or  
355 represent himself to be a massage therapist or use any other  
356 title, abbreviations, letters, figures, signs or devices that  
357 indicate that the person is a massage therapist unless he is  
358 licensed to practice massage therapy under the provisions of this  
359 chapter. A current massage therapy license issued by the board  
360 shall at all times be prominently displayed in any place where  
361 massage therapy is being practiced.

362           (3) The following are requirements for licensure:

363           (a) An applicant must be eighteen (18) years of age, or  
364 older, on the date the application is submitted.

365           (b) An application must provide proof of high school  
366 graduate equivalency.



367 (c) An applicant must be of legal status not only to  
368 receive a license, but also to work in the State of Mississippi  
369 with that license.

370 (d) An applicant must supply proof of current  
371 certification in cardiopulmonary resuscitation (CPR) and first aid  
372 of at least eight (8) hours of training, including practical  
373 testing, and supply documentation of familiarity with the  
374 Americans with Disabilities Act.

375 (e) All required fees for licensure must be submitted  
376 by the applicant.

377 (f) Any and all requirements regarding good moral  
378 character and competency, as provided for in this chapter and in  
379 accepted codes of ethics, shall be met.

380 (g) An applicant must have completed an approved  
381 continuing education course on communicable diseases, including  
382 HIV/AIDS information and prevention.

383 (h) The applicant's official and certified  
384 transcript(s) from the applicant's massage therapy school. The  
385 transcript must verify that the applicant has completed a  
386 board-approved training program of no less than the minimum  
387 requirement for supervised in-class massage therapy instruction  
388 and student clinic, with a minimum grade requirement of "C" or  
389 better in every course of instruction, as stated for school  
390 requirements.





391 (4) The following pre-act practitioners are exempt from  
392 having to take any examination for licensure, but must fulfill all  
393 other requirements as stated in this chapter, except for the  
394 requirements in subsection (3)(h) of this section:

395 (a) Those having more than three hundred (300)  
396 documented, board-accepted in-class hours of massage therapy  
397 education before January 1, 2001.

398 (b) Those having more than five (5) years of  
399 professional massage therapy experience and a minimum of one  
400 hundred fifty (150) hours of approved massage therapy education.

401 (c) Those having no formal training, but who have  
402 successfully passed the National Certification Examination for  
403 Therapeutic Massage and Bodywork.

404 (d) All grandfathering exemption allowances as stated  
405 in this subsection (4) shall end on July 1, 2002, for nonstudents,  
406 and on June 1, 2003, for students who were enrolled in a part-time  
407 massage school curriculum on July 1, 2001. Individuals may apply  
408 for a license until the grandfathering exemption ends, but may not  
409 practice massage beyond the allowed grace period as provided for  
410 in Section 73-67-37 unless a valid massage therapy license or  
411 provisional permit is obtained. Except as provided in subsection  
412 (5) of this section, all other pre-act practitioners and anyone  
413 not practicing massage therapy before January 1, 2001, must take  
414 and pass the licensure examination and follow the requirements in



415 this chapter to practice massage therapy for compensation in  
416 Mississippi.

417 (e) Students enrolled in a massage therapy curriculum  
418 of at least five hundred (500) hours on July 1, 2001, who complete  
419 graduation from the same curriculum.

420 (5) Any person who has practiced massage therapy for a  
421 period of more than twenty-five (25) years before March 14, 2005,  
422 who is employed as a massage therapist by a YMCA or YWCA  
423 authorized and existing as a nonprofit corporation under the laws  
424 of this state on March 14, 2005, is exempt from having to take any  
425 examination for licensure, but must fulfill all other requirements  
426 as stated in this chapter, except for the requirements in  
427 subsection (3) (b), (d), (g) and (h) of this section. Persons  
428 exempt under this subsection may apply for a massage therapy  
429 license until January 1, 2006, but may not practice massage  
430 therapy after January 1, 2006, unless a valid license is obtained.

431 (6) Certificates of registration issued by the board before  
432 July 1, 2008, shall remain valid as licenses until the next  
433 renewal period.

434 (7) An applicant must have successfully been cleared for  
435 licensure through an investigation that shall consist of a  
436 determination as to good moral character and verification that the  
437 prospective licensee is not guilty of or in violation of any  
438 statutory ground for denial of licensure as set forth in Section  
439 73-67-27.



440 (a) To assist the board in conducting its licensure  
441 investigation, all applicants shall undergo a fingerprint-based  
442 criminal history records check of the Mississippi central criminal  
443 database and the Federal Bureau of Investigation criminal history  
444 database. Each applicant shall submit a full set of the  
445 applicant's fingerprints in a form and manner prescribed by the  
446 board, which shall be forwarded to the Mississippi Department of  
447 Public Safety (department) and the Federal Bureau of Investigation  
448 Identification Division for this purpose.

449 (b) Any and all state or national criminal history  
450 records information obtained by the board that is not already a  
451 matter of public record shall be deemed nonpublic and confidential  
452 information restricted to the exclusive use of the board, its  
453 members, officers, investigators, agents and attorneys in  
454 evaluating the applicant's eligibility or disqualification for  
455 licensure, and shall be exempt from the Mississippi Public Records  
456 Act of 1983. Except when introduced into evidence in a hearing  
457 before the board to determine licensure, no such information or  
458 records related thereto shall, except with the written consent of  
459 the applicant or by order of a court of competent jurisdiction, be  
460 released or otherwise disclosed by the board to any other person  
461 or agency.

462 (c) The board shall provide to the department the  
463 fingerprints of the applicant, any additional information that may  
464 be required by the department, and a form signed by the applicant

