

ACT 95

H.B. NO. 232

A Bill for an Act Relating to Board of Massage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 452-2, Hawaii Revised Statutes, is amended to read as follows:

“**§452-2 License required.** It is unlawful for any person in the State to engage in or attempt to engage in the occupation or practice of massage for compensation without a current massage therapist license or massage therapist apprentice permit issued pursuant to this chapter. [It is also unlawful for any person to advertise massage services without a current massage therapist license issued pursuant to this chapter.]”

SECTION 2. Section 452-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) [An applicant for examination shall have good moral character, and a medical report which shall include an X-ray examination of the chest made, or a tuberculin clearance report dated, not more than six months prior to the date of application and a statement by a licensed physician that the applicant has been examined and is free of all other communicable and contagious diseases.] A nonrefundable application fee and an examination fee, which shall be refunded only if the board finds that the applicant is not qualified to take the license examination, shall be paid to the board at the time of the application.
- (2) The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant’s moral character.
- (3) An applicant for examination shall have spent at least six months as a massage therapist apprentice and have met all other requirements set for apprentices by the board pursuant to section 452-6(d).
- (4) The board may waive the examination of an applicant upon the payment of the application fee and [the submittal of a medical report as required in paragraph (1)] if the applicant is licensed in another state, territory, or the District of Columbia, wherein the license requirements are found by the board to be comparable or more stringent than the requirements in force in this State.”

SECTION 3. Section 452-16, Hawaii Revised Statutes, is amended to read as follows:

“**§452-16 Renewal of license; fees.** Massage therapist, massage establishment, and out-call massage service licenses shall expire on June 30 of each even-numbered year following the date of issuance unless renewed for the next biennium. [A license] These licenses may be renewed by filing an application

therefor, accompanied[, in the case of a massage therapist,] by a renewal fee [and a medical report similar to that required on initial application and, in the case of an establishment or out-call massage service, by a renewal fee]. The application shall be made between May 1 and June 30 of each even-numbered year. Failure to apply for renewal as provided in this section shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after expiration upon the filing of an application in the same manner and payment, in addition to all delinquent fees, of a penalty fee. Thereafter, the license shall not be restored unless the regular examination for applicants is again taken and passed."

SECTION 4. Section 452-19, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any owner, operator, manager, or licensee in charge of or in control of a massage establishment or out-call massage service who knowingly employs a person who is not licensed as a massage therapist or who has not received a permit as a massage therapist apprentice as provided in this chapter, or who allows [such] an unlicensed person to perform, operate, or practice massage is guilty of a misdemeanor, and upon conviction [such] the person shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 5. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§452- Advertising. (a) It is a misdemeanor for any person to advertise as a massage therapist, a massage establishment, or an out-call massage service unless the person holds a valid license under this chapter in the classification so advertised. "Advertise" as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building, vehicle, or structure, or advertising in any newspaper or magazine, or advertising other than in-column listings in any directory, or commercials broadcast by airwave transmission, with or without any limiting qualifications.

(b) A licensee may advertise in print or broadcast media as defined in subsection (a) only if the licensee includes in the advertisement the licensee's applicable and current license number and provides proof of the number's validity to the publisher or producer of the advertising medium. The publisher or producer of a print or broadcast advertising medium shall refuse to publish or broadcast an advertisement for a licensee who does not provide proof of current license registration and who does not include a currently valid license number in the advertisement.

(c) The publisher or producer of a print or broadcast advertising medium shall not be liable in any suit, action, or claim arising from its refusal to list or accept advertisements pursuant to subsection (b)."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on November 1, 1985.

(Approved May 10, 1985)

Note

1. Edited pursuant to HRS §23G-16.5.