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Health Care  
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# **Kansas Legislator Briefing Book 2015**

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## **Health**

### **L-3 Massage Therapy**

Although Kansas does not have a massage therapy licensure requirement, several recent attempts have been made to institute such a requirement. This paper summarizes Kansas law and practice, as well as laws from other states.

### **Kansas Law**

Kansas does not have a massage therapy licensure requirement; individuals in Kansas can engage in the practice of massage therapy without fees, state standards, or state oversight. There are Kansas statutes that define what massage therapy is not. KSA 65-2872 and KSA 65-2913 expressly exclude from the practice of healing arts and from representing oneself as a physical therapist respectively, persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers.

Some local governments have zoning requirements restricting where a massage therapist may be located.

### **Kansas Massage Therapy Programs**

There are at least nine massage therapy programs offered in Kansas at community colleges, technical schools, and private companies. The programs range in duration from 12 to 24 months. Most programs claim to prepare students to take a national massage therapy examination. There are at least five national massage therapy examinations. These examinations are listed in Table One.

### **Other States**

Forty-eight states either require massage therapy licensure or have introduced or drafted legislation requiring licensure of massage therapists. The majority of states have a Massage Therapy Board that regulates massage therapy licenses. The biennial licensing fees range from \$60 to \$300. Most states require 500 to 600 hours of message therapy education, although some states require up to 1000 hours. Most states require applicants to pass a state or national examination, as well as some level of background check.

Table One compares the specific licensing requirements of HB 2187, which was introduced during the Kansas 2013 Legislative Session, to requirements in Iowa and the states geographically surrounding Kansas.

## History of Bills Introduced in Kansas

Bills to enact licensure for massage therapists were introduced in 2008 (SB 572), 2012 (HB 2564), and 2013 (HB 2187). In January 2014, HB 2187 received a hearing in the House Committee on Health and Human Services; however, no further action was taken on the bill. Table Two highlights some of the differences and similarities between the three bills. HB 2187 remained in the House Committee on Health and Human Services at the end of the 2013 Legislative Session. Table Two highlights some of the differences and similarities between the three bills.

HB 2187 would give oversight of massage therapy licensure to the Board of Nursing (Board). The Board estimated licensing of massage therapy would increase its expenditures for the first year by \$217,883 and would increase fee fund revenue by \$180,000, assuming 2,400 people would have applied for a massage therapy license. There would have been a \$30,000 one-time start-up fee for capital outlay expenditures for the first year. The Board anticipated hiring three FTEs to handle the increased workload.

Proponents of the bill stated it would not over-regulate the practice of massage therapy but would protect the practitioners and the public.

Proponents also stated the bill would benefit public interest by assuring clients that a licensed massage therapist had a clear scope of practice, a required education and training level, and continuing education requirements; that a means of filing a complaint or grievance was available; and that a state regulatory body was empowered to enforce sanctions against those who violated public trust. Without state licensure the only recourse for the public is filing a criminal or civil complaint.

Opponents of the bill stated massage therapy practice is operating well without government involvement. Opponents also voiced concern about the ability to comply with record-keeping standards. While massage therapy schools teach record-keeping as part of a 500-hour program there are not record-keeping classes available for practicing massage therapists not enrolled in a full training program.

The League of Kansas Municipalities (LKM) opposed the section of the bill that would preempt the municipal ordinances relating to massage therapists. The LKM suggested a dual regulation system.

A subcommittee of the House Committee on Health and Human Services was formed during the 2013 Legislative Session to gather additional information about massage therapy. The first meeting was on March 14, 2013, and a second meeting was held on May 9, 2013.

Table One

Massage Therapy Laws									
State	State Licensure	Regulatory Oversight Body	License Fees (maximum allowable)	Age Requirement	Education Requirements	Other Licensing Requirements	Exam Requirements	Continuing Education	
Kansas (proposed)	2013; HB 2187 proposed in 2013; not enacted	State Board of Nursing	Application: \$80 Temp. Permit: \$25 Renewal: \$75 Late Renewal: \$75 Reinstatement: \$80	18 years of age (yoa)	High school diploma/equivalent; 500 in-classroom hours	No disqualifying conduct (as defined by the Board); criminal background check (optional)	Nationally recognized competency exam in massage	12 hours biennially	
Colorado	yes	Regulatory Board	Application & Initial Licenses: \$80 Renewal: \$59 Fingerprint Check: \$39.50		500 hours	Background check	NCBTMB; or MBLEx	N/A	
Missouri	yes	Missouri State Board of Therapeutic Massage	Student License: \$25 Provisional: \$50 Permanent License: \$125 Renewal: \$100	18 years of age	500 hours	Good moral character	*NCETMB; *NCCAOM; *MBLEx; or *AMMANANCE	12 hours biennially	
Nebraska	yes	Nebraska Massage Therapy Board	License: \$110 Temp. License: \$25 Renewal: \$110	19 years of age	1,000 hours	Good character	NCBMTB; or MBLEx	24 hours biennially	
Oklahoma	SB 1019 and HB 1417 proposed in 2013; not enacted	(SB 1019) Board of Medical Licensure and Supervision (HB 1417) Board of Chiropractic Examiners	(SB 1019) License \$50; Temp. license \$25 (HB 1417) License not to exceed \$300; Temp. license not to exceed \$200	SB 1019) 18 yoa (HB 1417) to be addressed in rules and regulations	(SB 2019) 750 hours (HB 1417) to be addressed in rules and regulations	(SB 1019) Disclose all criminal history (HB 1417) No conviction of a felony or other specified crimes	(SB 1019) Standardized national massage therapy examination (HB 1417) to be addressed in rules and regulations	(SB 1019) and (HB 1417) to be addressed in rules and regulations	
Iowa	yes	Iowa Board of Massage Therapy Examiners	Application: \$120 Biennial Renewal: \$60		600 hours		NCETMB; or MBLEx	24 hours biennially	
NCBMTB: National Certification Examination for Therapeutic Massage & Bodywork MBLEx: Federation of State Massage Therapy Boards NCCAOM: National Certification Commission for Acupuncture and Oriental Medicine NCETMB: National Certification Board for Therapeutic Massage & Bodywork AMMANANCE: American Manual Medicine Association National Certification Exam									

Table Two

<b>Comparison of Massage Therapy Licensure Bills 2001-2013</b>			
	<b>2013 HB 2187</b>	<b>2012 HB 2564</b>	<b>2008 SB 572</b>
<b>Provisions Named Act</b>	Message Therapist Licensure Act	Same as 2013 bill	Message Therapy Practice Act
<b>Regulatory Oversight Body</b>	State Board of Nursing	State Board of Healing Arts	Board of Massage Therapy established by the Act
<b>Included in Practice of Massage Therapy</b>	Care and services in a system of therapeutic, structured touch, palpitation or movement of soft tissue to enhance or restore general health and well-being. The system includes, but is not limited to: effleurage (stroking or gliding); petrissage (kneading); tapotement or percussion; friction, vibration, compression; passive and active stretching within the normal anatomical range of movement; hydromassage; thermal massage; or application of these techniques with or without the aid of lubricants, salt or herbal preparations, water, heat, or a massage device mimicking or enhancing actions by human hands.	Does not refer to services by a "licensed" massage therapist, but other provisions are identical to the 2013 bill.	Does not refer to services by a "licensed" massage therapist, but other provisions are identical to 2013 bill.
<b>Applicant Requirements for Licensure</b>	The applicant may be licensed if they have a high school diploma or equivalent, 18 years of age or older, no other disqualifying conduct as defined by the Board, completion of 500 hours of instruction, and passed a nationally recognized competency examination approved by the Board.	The applicant "is of good moral character as defined by the Board according to this Act."	Same as 2013 except proof of U.S. citizen or permanent resident and good moral character were required. Two options available to license individuals who do not meet the standard requirements.
<b>Detailed License Standards for Practice of Massage Therapy</b>	Not in statute	Not in statute	Detailed licensed standards for practice set out in statute.
<b>Temporary Permits</b>	May be issued for not more than 120 days for a graduate of a massage therapy school in a foreign country (requires licensure verification and approval of educational credentials).	Not in statute	Not in statute
<b>Identification as Licensed Massage Therapist</b>	Use of "LMT" in identifying self to patient or public; use of words including "massage therapist," "massagist," "massotherapist," "myotherapist," "body therapist," "massage technician," "massage practitioner," "masseur," "masseuse," or any derivation of these terms.	Same as 2013 bill	Includes terms identifying individual as a massage therapist similar to 2013 bill.

Table Two, continued

<b>Comparison of Massage Therapy Licensure Bills 2001-2013</b>			
	<b>2013 HB 2187</b>	<b>2012 HB 2564</b>	<b>2008 SB 572</b>
<b>Provisions Named Act</b>	Massage Therapist Licensure Act	Same as 2013 bill	Massage Therapy Practice Act
<b>Advisory Committee or Advisory Council</b>	Advisory Committee established by the Board	Massage Therapy Advisory Council	None. Instead, the bill outlines the creation of the Board of Massage Therapy.
<b>License Expiration</b>	Expires every two years on the date established by Board rules and regulations. Renewal application and prescribed biennial renewal fee required.	Expires on the date of expiration established by rules and regulations of the Board unless the license is renewed in the manner prescribed by the Board.	Expires annually unless renewed.
<b>Continuing Education Requirement on License Renewal</b>	No more than 12 hours of continuing education required biennially for license renewal.	No more than six hours of continuing education annually.	Continuing education requirements not to exceed 16 hours per biennium.
<b>Fingerprinting - State and National Criminal History Record Check</b>	The Board may require fingerprinting of an initial applicant for licensure for identification and to determine whether applicant has criminal record in state or other jurisdictions, and may use such information to determine character and fitness for practice in state.	Not in statute	New applicant for license agrees to provide the Board with any and all information needed to perform a criminal background check and expressly consents and authorizes the Board or its representative to perform such a check.
<b>Disciplinary Action</b>	The Board may deny, suspend, revoke, or limit a license or the licensee may be publicly or privately censured if guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Civil fines also may be assessed for unprofessional conduct in an amount not to exceed: \$1,000 for first violation, \$2,000 for second violation, and \$3,000 for third and each subsequent violation.	Same as 2013 bill. Also mentions the Board may refuse to renew; if applicant is found guilty of a felony, mentions acts for which convicted must be found by the Board to have a direct bearing on whether the individual should be entrusted to serve the public in the capacity of a naturopathic doctor. Civil fines may be assessed for unprofessional conduct in an amount not to exceed \$5,000 for first violation, \$10,000 for second violation, and \$15,000 for third and each subsequent violation.	The Board may examine and determine the qualifications and fitness of applicants to practice massage therapy. The Board may issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage therapy or otherwise discipline massage therapists. The Board may assess civil penalties. Fines for practice without a license: not more than \$1,000 for each offense; conviction of second or subsequent offense would include a fine of not more than \$1,000 for each offense, imprisonment for not more than 12 months, or both. The Board also may impose fines of not more than \$1,000 for each offense for a detailed list of 13 additional offenses, including unprofessional conduct. The factors the Board is to consider before imposing civil penalties also are provided in the bill.
<b>Restriction on Local Units of Government</b>	On and after July 1, 2015, local units of government cannot establish or maintain professional licensing requirements for massage therapists licensed under the Act. Local zoning requirements are not affected by the Act.	Same as 2013 bill, except a one year delay in application of restriction and 2013 bill applies a one to two year delay depending on the date of bill passage and publication in statute book.	Local jurisdictions may adopt or enforce any local ordinance that is not in conflict with provisions of the Act.

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